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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, ~~1947~~ 1948

No. 786 51

RAILWAY EXPRESS AGENCY, INC., CHARLES GERCHARIO, MICHAEL LONG, ET AL.,
Appellants,

vs.

THE PEOPLE OF THE STATE OF NEW YORK

APPEAL FROM THE COURT OF APPEALS OF THE STATE OF NEW YORK

STATEMENT AS TO JURISDICTION

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Of Counsel.

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COURT OF APPEALS OF THE STATE OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK,
Plaintiff-Respondent,

against

RAILWAY EXPRESS AGENCY, INC.,
Defendant-Appellant

PEOPLE OF THE STATE OF NEW YORK,
Plaintiff-Respondent,

against

CHARLES GERCHARIO, MICHAEL LONG, AND 11 OTHERS,
Defendant-Appellants

STATEMENT AS TO THE JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES TO REVIEW ON DIRECT APPEAL THE JUDGMENT HEREIN OF THE COURT OF APPEALS OF THE STATE OF NEW YORK.

The defendants-appellants having presented this day their petition for appeal, pursuant to Rule 12 of the Rules of the Supreme Court of the United States now file their statement of the basis upon which it is contended that the Supreme Court of the United States has jurisdiction on a direct appeal to review the final judgment of the Court of Appeals herein, and should exercise such jurisdiction in these cases:

(A) The Statutory Provision Believed to Sustain the Jurisdiction

It is believed that the Supreme Court of the United States has jurisdiction to review on a direct appeal the final judgment in question by virtue of the express provisions of Section 237, subsection (a) of the Judicial Court (28 U. S. C. A. 344 (a)), which are in material part as follows:

> "A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had * * * where is drawn in question the validity of a statute of any State, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity, may be reviewed by the Supreme Court upon appeal. * * *"

(B) The State Statute, the Validity of Which Is Involved

The statute, the validity of which is involved, is Section 124, Article IX of the Traffic Regulations promulgated by the Police Commissioner of the City of New York, which provides:

> "§ 124. Advertising vehicles.
>
> No person shall operate, or cause to be operated, in or upon any street an advertising vehicle; provided that nothing herein contained shall prevent the putting of business notices upon such business delivery vehicles, so long as such vehicles are engaged in the usual business or regular work of the owner and not used merely or mainly for advertising."

The foregoing Traffic Regulation was made by the Police Commissioner under the authority alleged to have been conferred upon him by Section 435 of the New York City

Charter adopted by referendum and effective January 1, 1938, which provides in material part:

> "The police department and force shall have the power and it shall be their duty to * * * regulate, direct, control and restrict the movement of vehicular and pedestrian traffic for the facilitation of traffic and the convenience of the public as well as the proper protection of human life and health; * * * The commissioner shall make such rules and regulations for the conduct of pedestrian and vehicular traffic in the use of the public streets, squares and avenues as he may deem necessary which shall not become effective until filed with the city clerk and published in the City Record. The violation of such rules and regulations shall be triable by a city magistrate and punishable by not more than thirty days' imprisonment, or by a fine of not more than fifty dollars, or both."

Section 124 of the Traffic Regulations constitutes a State statute within the meaning of Section 237, Judicial Code (28 U. S. C. A. § 344).

New Orleans Water Works v. *Louisiana Sugar Ref. Co.*, 125 U. S. 18 (1888);

Atlantic Coastline R. Co. v. *Goldsboro*, 232 U. S. 548 (1914);

Reinman v. *Little Rock*, 237 U. S. 171 (1915);

Lake Erie & W. R. Co. v. *State Public Utilities Comm. ex rel. Cameron*, 249 U. S. 422 (1919);

Live Oak Water Users' Ass'n v. *Railroad Comm.*, 269 U. S. 354 (1926);

Sultan R. & Timber Co. v. *Dept. of Labor*, 277 U. S. 135 (1928);

Hamilton v. *University of California*, 293 U. S. 245 (1934);

Terminal Railroad Ass'n of St. Louis v. *Brotherhood of Railroad Trainmen*, 318 U. S. 1 (1943).

The Traffic Regulations herein referred to are not printed in an official edition, but are in pamphlet form, and for this reason a pamphlet containing the Regulations is annexed hereto as Appendix A.

(C) The Date of the Judgment Sought to Be Reviewed and the Date upon Which Application for Appeal Is Presented.

The final judgment of the Court of Appeals of the State of New York sought to be reviewed was made and entered November 20, 1947. Reargument was denied by that Court January 15, 1948. The petition for appeal to the Supreme Court of the United States was presented and filed February 16, 1948.

(D) The Nature of the Case and Rulings of the Court of Appeals Bringing the Appeal Within the Jurisdictional Provisions Relied On.

The Police Commissioner of the City of New York, purporting to act under authority of Section 435 of the Charter of the City of New York, promulgated certain Traffic Regulations effective January 1, 1938, among which is Section 124, Article IX of said Regulations, the provisions of which are above set forth.

The Defendant-Appellant Railway Express Agency, Inc. is a common carrier engaged in the expressage of goods in interstate commerce, operating some 14,500 delivery trucks throughout the United States, of which about 1,900 are run in the City of New York and registered and licensed by the State of New York (Fols. 262, 295). In the course of its business, and by explicit authority of its Charter, the said Appellant, since 1930, has leased space on the sides of its trucks for the display of posters advertising various products and events (Fols. 215-240). Some of these posters

advertise the business of the Appellant (Fols. 299-300); and other posters advertise things and events other than the Appellant's business (Fols. 350-51). These latter are displayed in performance of a nation-wide contract entered into in December, 1942 between Defendant-Appellant Railway Express Agency, Inc. and Douglas Leigh Poster Advertising Co. Testimony offered by Defendants-Appellants as to what revenue is derived from this contract was excluded (Fols. 298-99) It is undisputed that the trucks of Defendant-Appellant Railway Express Agency, Inc. are never operated solely to exhibit the posters—*e. g.*, driven empty about the City simply to display advertising. They use the streets only when they have merchandise to deliver, and only in connection with and as an incident to that function are the advertisements carried along with the freight (Fols. 300-1). There was no evidence that if the posters were removed, the number of trucks now operated would be reduced; or that any streets now used would not be traversed; or that the delivery routes now followed would be changed, limited or discontinued.

Although the theory of the Respondent is that the posters constitute an obstruction to traffic, there is no finding to that effect by the Police Commissioner nor testimony to that effect by the arresting officers; and there is nothing in the record to show that as a matter of experience street accidents attributable to the presence of the advertisements have occurred. Nevertheless the trucks of the Defendant-Appellant Railway Express Agency, Inc. have been classified as "advertising vehicles" within the prohibition of Section 124 of the Traffic Regulations, and the trucks of said Defendant-Appellant carrying advertisements have been excluded from every street within the City of New York under penalty of conviction for criminal offenses punishable by fine or imprisonment, or both.

As interpreted by the Police Commissioner and as applied to and enforced against the Defendants-Appellants, Section 124 of the Traffic Regulations, while it permits vehicular advertising if the vehicle advertises the business of its owner and is used in the regular course of that business, prohibits such vehicular advertising if the vehicle advertises events or things other than the business of its owner, even though the vehicle is at the time used in the regular course of the owner's business. So construed, Section 124 applies not alone to vehicles run wholly for the purpose of advertising display, but also to those used in the ordinary and usual course of the owner's delivery business; and under the interpretation which has been given to it by the Police Commissioner and the State courts, the Regulation absolutely prohibits within the City of New York the conduct of the otherwise legitimate business of paid vehicular advertising.

Also, under the interpretation which has been given to Section 124 of the Traffic Regulations in its enforcement against the Defendants-Appellants, a single truck of Railway Express Agency, Inc. may display on one side an advertisement of the business of the Defendant-Appellant and on the other side an advertisement of the business of another, *e. g.*, Camel Cigarettes; and while the Railway Express advertisement does not constitute an obstruction of traffic within the meaning of Section 124, the Camel Cigarette advertisement does constitute such an obstruction of traffic. Thus, simultaneously, a single truck is and is not a traffic obstruction.

Pursuant to this construction and application of Section 124, the Defendant-Appellant Railway Express Agency, Inc. was convicted of a violation thereof in the Magistrates Court of the City of New York on July 2, 1945 (Fols. 328-336). The other Defendants-Appellants, who were drivers of the truck involved, were similarly convicted on March

28, 1946 (Fols. 358-368). Successive appeals from said convictions were taken by the Defendants-Appellants to the Appellate Part of the Court of Special Sessions of the City of New York (Fols. 7-30), where said convictions were affirmed (Fols. 385-396), and thence, by permission (Fols. 415-418), to the Court of Appeals of the State of New York (Fols. 373-384), where the convictions were also affirmed, but by a closely divided bench.

From the outset, the Defendants-Appellants have defended the charge against them upon the ground that Section 124 of the Traffic Regulations is repugnant to the Constitution of the United States, particularly the Fourteenth Amendment and Article I, Section 8. These assertions of unconstitutionality were made as follows:

I. *Magistrates Court of the City of New York*

In its answer to the complaint served upon it (the other Defendants-Appellants were served with summonses only), Defendant-Appellant Railway Express Agency, Inc. pleaded, among others, the following defenses (Fols. 193-95):

> "*For a Second Defense:*
>
> 3. Alleges that, if construed to prohibit the carrying of paid advertising by the defendant on its delivery vehicles while operated in the streets of New York City in the transportation of merchandise in the usual conduct of the business of the defendant, § 124 of the Traffic Regulations is arbitrary, unreasonable and void, and exceeds the powers delegated by the State of New York to the City and to the Police Commissioner.
>
> *For a Third Defense:*
>
> 4. Alleges that, if construed as set forth in paragraph 3 hereof, § 124 of the Traffic Regulations would deprive the defendant of its property without due process of law in violation of the State and Federal Constitutions.

For a Fourth Defense:

5. Alleges that the defendant, a corporation of the State of Delaware doing business in the State of New York, employs delivery vehicles in the City of New York preponderantly in the carriage of goods in interstate commerce, and carries paid advertising in its vehicles as an incident to the carriage of goods, and that § 124 of the Traffic Regulations, if construed as set forth in paragraph 3 hereof would exceed the police powers of the State of New York and be an unconstitutional interference with interstate commerce."

In oral argument before Magistrate Morris Rothenberg, the following was stated by counsel for Defendant-Appellant Railway Express Agency, Inc. (Fols. 332-334):

"Mr. Carson: In connection with the Corporation Counsel's remarks, I might remind Your Honor that the Court of Appeals, in a case cited in our brief, has said that the Police Commissioner's power to make regulations having the force of law, is conditioned upon their being reasonable.

The construction which the Corporation Counsel urges Your Honor to put on this regulation, as we have shown, would be unreasonable.

But we primarily, without waiving our constitutional rights, urge upon Your Honor to apply the regulation as written, to allow the Railway Express Agency to carry business notices, not only its own, but those of others, in the prosecution of its business of carrying goods, because those notices relate to the goods it carries."

II. *Court of Special Sessions*

In their Notice of Appeal, Defendants-Appellants stated as grounds for appeal (Railway Express Agency, Inc., Fols. 11-13; Charles Gerchario, et al., Fols. 23-25):

"4. That under the construction put upon said § 124 by the Magistrate it violates the rights of the defendant

under the Fourteenth Amendment of the United States Constitution and Article I, Section 6 [meaning Section 8], of the Constitution of the State of New York.

5. That the business delivery vehicles of the defendant (including those described in the information) using the streets of the City of New York preponderantly carry goods in interstate commerce and that the construction of said § 124 by the Magistrate constitutes an undue burden upon interstate commerce and exceeds the police power of the City of New York.

6. That under the construction put upon said §124 by the Magistrate it deprives defendant of the equal protection of the laws in violation of the Fourteenth Amendment of the United States Constitution and Article I, Section 11 of the Constitution of the State of New York."

In the brief submitted by Defendants-Appellants to the Court of Special Sessions under date of November 4, 1946, they argued as Point II thereof (p. 21):

"The construction placed upon Section 124 by the magistrates in convicting defendants of a violation thereof is so forced, unreasonable and arbitrary as to render it unconstitutional and void."

The *per curiam* opinion of the Court of Special Sessions affirming the judgments of conviction, a copy of which is hereto annexed as Appendix B, concludes as follows (Fols. 413-414):

"It is our conclusion that the regulation bears a reasonable relationship to the subject of traffic control and public safety and that it reasonably comes within the charter grant of power to the Police Commissioner. In our opinion, the regulation is constitutional."

III. *Court of Appeals*

In the affidavit of Ralph M. Carson, of counsel to the Defendants-Appellants, sworn to January 24, 1947 and

§ 28. Wheel to curb on hill.

A driver shall not leave his motor vehicle unattended standing on any perceptible grade without effectively setting the brakes thereon, and turning the front or rear wheel to the curb.

§ 29. Mirrors, blocked vision and interference.

1. It shall be unlawful to drive a motor vehicle, except a motorcycle, which is not equipped with a mirror inside or outside of said vehicle through which the driver shall have a clear view of the road and traffic behind said vehicle.

2. No driver shall proceed if his motor vehicle be so loaded with material or persons that his vision through his mirror or side or front window is blocked or the driving mechanism is interfered with by materials or persons.

§ 30. Passengers in motor vehicle.

1. It shall be unlawful to drive a motor vehicle with more than three adult persons over the age of sixteen (16) years in the front seat of other than a commercial vehicle.

2. No person shall ride in any place or in any part of a vehicle except that provided for carrying purposes, nor shall he permit any part of his body to extend outside of any part of a vehicle, except when required to extend the hand to indicate an intention to turn, slow down, stop, or start from curb.

§ 31. Driving through safety zone.

No vehicle shall at any time be driven through or within a safety zone, except when a traffic sign permits it.

§ 32. Fire drill line.

The driver of a vehicle shall not drive through or approach within 100 feet of a line of children during a fire drill, nor interfere with, hinder, obstruct or impede in any way whatsoever any such fire drill, except authorized emergency vehicles.

§ 33. Overloaded or dangerously loaded vehicle.

1. It shall be unlawful to drive a vehicle so overloaded that the horse or motor can draw or propel it only with great difficulty.

2. No driver of a vehicle loaded with any material extending beyond its rear over four (4) feet shall operate or drive such vehicle unless there be attached a red flag by day and a red light at night at the extreme rear end of such material.

§ 34. Windshield and rear window obstructions.

The use or placing of posters or stickers on windshield or rear windows of motor vehicles other than those authorized by competent authority, is prohibited.

§ 35. Learner's street.

A driver with a learner's permit shall operate a motor vehicle only on streets designated as learner's streets by the Police Commissioner, and only when accompanied by a licensed chauffeur or operator who shall not permit such learner to violate this provision. (NOTE: Consult local police stations for information regarding location of learner's streets.)

§ 36. Limitations on backing.

The driver of a vehicle shall not back the same into an intersection or over a crosswalk and shall not in any event or at any place back a vehicle unless such movement can be made in safety.

§ 37. Emerging from alley or private driveway.

The driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across an alleyway, and upon entering the street shall yield the right of way to all vehicles approaching on said street.

§ 38. Vehicles not to be driven on sidewalk.

1. The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

2. A driver of a vehicle shall not proceed from one street to another by driving across a sidewalk or driveway for the purpose of avoiding the necessity of turning at an intersection.

§ 39. Flats; Safety measures.

Any person may, in order to remove or replace a flat tire on the left side of his vehicle, stop on the left side of a two way street with the left side of his vehicle facing and near the curb. A person shall not, unless circumstances prevent, remove or replace a flat tire while any part of his body is exposed to passing vehicles. No driver shall stop on a bridge for the purpose of removing or replacing a flat tire.

§ 40. Restrictions and permits required to take certain vehicles over bridges and viaducts.

submitted in the Court of Appeals in support of the motion of Defendants-Appellants for leave to appeal to the Court of Appeals, the following questions of law, among others, were said to be presented by the record and to be of such nature as to merit review by the Court of Appeals:

> "(c) Whether a construction of § 124 adverse to the appellants would not be unconstitutional as (i) making an unreasonable and arbitrary distinction between business notices and general advertising, (ii) depriving Railway Express of its property in the use of the sides of delivery vehicles for advertising incidental to the permitted transportation of goods, (iii) exceeding the powers delegated to the Police Commissioner under the New York City Charter (*Bus Depot Holding Corporation* v. *Valentine*, 288 N. Y. 115), (iv) making an unreasonable classification between business notices and advertising in the exercise of the administrative duty of traffic regulation, (v) denying the appellants equal protection of the laws by reason of the arbitrariness of said distinction, and (vi) exceeding the police power of the City of New York and unduly burdening interstate commerce (*People* v. *Horton Motor Lines*, 281 N. Y. 196.)"

Upon the basis of said affidavit, the Chief Judge of the Court of Appeals granted leave to appeal and certified that questions of law existed which ought to be reviewed by the Court of Appeals (Fol. 417).

In their brief in this Court, Defendants-Appellants argued (Appellants' Brief, pp. 71-91):

> "Point VI—The Regulation, as Construed by the Prosecution, Deprives Appellants of Due Process and the Equal Protection of the Law in Violation of Their Rights Under the State and Federal Constitutions (p. 71).
>
> Point VII—The Police Commissioner's Regulation is a Direct and Undue Burden on Interstate Commerce" (p. 82).

The Respondent, People of the State of New York, argued in the Court of Appeals (Respondent's Brief, pp. 20-29) that

> "The Traffic Regulation as construed below is constitutional,"

and argued under this point that Section 124 does not violate the due process or equal protection clauses of the Fourteenth Amendment to the Federal Constitution and does not constitute an undue burden on interstate commerce.

In dissenting from the affirmance by the Court of Appeals of the State of New York of the judgments convicting the Defendants-Appellants, three members of that Court of seven concurred in a memorandum opinion, stating:

> "This regulation of the Police Commissioner [Section 124, Article IX, Traffic Regulations of the City of New York], as interpreted to forbid these unobjectionable advertisements on defendant's trucks is so unrelated to traffic control as to be arbitrary as a matter of law."

The foregoing dissent constitutes the only opinion written in the Court of Appeals of the State of New York, the majority of that Court having affirmed the judgments appealed from without opinion.

On January 15, 1948, upon motion of the Defendants-Appellants, the Court of Appeals amended its remittitur to the Court of Special Sessions of the City of New York, so as to include therein the following statement of the questions arising under the Constitution of the United States which were presented and necessarily passed upon by that Court in its decision of these causes:

> "Questions under the Federal Constitution were presented and necessarily passed upon by this Court, viz: that Article 9, Section 124 of the Traffic Regulations of the Police Commissioner of the City of New York is repugnant to the Fourteenth Amendment and to

No person shall, without permission in writing from the commissioner of public works, operate or drive, on any bridge, or viaduct under the jurisdiction of the department of public works any steam or gasoline road rollers, steam or gasoline shovels, or any motor truck or trailer having a width of body inclusive of load of more than eight feet or having a height from pavement to top of vehicle or load of more than twelve feet six inches, or having a combined weight of truck and load, or of trailer and load, of more than thirty thousand pounds, the load to be so distributed that there shall not be more than eight hundred pounds per inch in width of tire on any one wheel, or having a length of body, inclusive of load, of more than thirty-five feet in the case of a single motor truck, or of more than fifty feet in the case of a combination of vehicles, or having wheels equipped with other than rubber tires, except on Nolins avenue and Hawtree Basin bridges in the borough of Queens, and Lemon Creek bridge in the Borough of Richmond. The total weight of truck and load permissible on Nolins avenue and Hawtree Basin bridges shall not exceed eight tons and on Lemon Creek bridge four tons.

§ 40-A. Bicycles on Bridges.

No person shall at any time walk, ride or propel a bicycle upon or across the vehicle traffic roadway of any bridge where signs prohibiting such practice have been installed.

§ 41. Clinging to moving vehicles.

No pedestrian or person riding upon any bicycle, motorcycle, coaster sled, roller skates, or any toy vehicle, shall attach the same or himself to any street car or moving vehicle upon the street. (NOTE: SUMMONS RETURNABLE TO DISTRICT MAGISTRATES COURT.)

§ 42. Dropping, throwing, or leaving destructive or injurious material in street.

No person shall wilfully or negligently drop, or permit to be dropped or thrown, upon any street any destructive or injurious material. (NOTE: SUMMONS RETURNABLE TO DISTRICT MAGISTRATES COURT.)

§ 43. Getting out of vehicle.

No person shall get out of any vehicle from the side facing on the travelled part of the street in such a manner as to interfere with the right of way of the driver of an approaching vehicle. (NOTE: SUMMONS RETURNABLE TO DISTRICT MAGISTRATES COURT.)

§ 44. Ice Wagons.

No person, being the owner or driver of any wagon used for the sale of ice, shall permit or allow the scale thereon or the beam to which it may be attached, or other implements for handling ice, to project, or be outside or beyond the side of such wagon when it is in motion in any street. (NOTE: SUMMONS RETURNABLE TO DISTRICT MAGISTRATES COURT.)

§ 45. Unbridled Horse.

A horse shall not be unbridled, nor left unattended in a street or unenclosed place without being securely fastened, unless harnessed to a vehicle with wheels so secured as to prevent it being dragged faster than a walk. (NOTE: SUMMONS RETURNABLE TO DISTRICT MAGISTRATES COURT.)

§ 46. Driver must have hand on steering device.

No person shall drive or ride a motor vehicle, motorcycle or bicycle without having his hand on the steering device or handle bars. A person driving, riding or leading a horse shall have the reins in his hand continuously.

§ 47. Obstructing rear red signal light.

When a vehicle is stopped upon a street, no person shall stand in such a position as to obscure the rear red signal light.

§ 48. Crossing fire hose.

No driver shall drive through or within established police or fire lines or over any unprotected hose of a fire department when laid down on any street, private driveway, or street car track, to be used at any fire or alarm of fire, without the consent of proper authority.

§ 49. Divided street.

The driver of a vehicle on a street divided by a parkway, walk, sunkenway, viaduct, circle, isle of safety, traffic stanchion, taxi stand, or divisional line or markers which divide a two-way street longitudinally, shall keep to the right of such division.

§ 50. Horn for danger only.

A driver shall sound the horn of his vehicle only when necessary to warn a person or animal of danger.

§ 51. Dazzling Lights.

No operator of any vehicle, or motorcycle, while operating same upon

any street, shall use any acetylene, electric or other headlight, unless it shall be so adjusted as not to blind or dazzle other users of the street or make it difficult or unsafe for them to ride, drive or walk thereon.

§ 52. Motor vehicles equipped for radio-telephone service.

No operator of a motor vehicle equipped for radio-telephone service shall receive or transmit messages over such radio-telephone while such vehicle is in motion. When an operator is receiving or transmitting a message, he shall stop the motor vehicle as near to the curb as possible, and in such a position as not to interfere with the orderly movement of traffic. (NOTE: This section shall not apply to the receiving or transmitting of messages by occupants of a motor vehicle other than the operator thereof.)

ARTICLE 4
Speed

§ 60. Speed limits and variations thereof.

The speed limit for driving any vehicle shall be as follows.

(a) 25 miles per hour, except where signs authorized by proper authority are posted indicating a GREATER OR LESSER speed.

(b) No driver shall drive at a rate of speed greater than 10 miles per hour when turning a corner.

(c) A driver who shall exceed any such speed limit shall be guilty of violating this section.

§ 61. Speed of authorized emergency vehicles.

The speed limitations set forth in this article shall not apply to authorized emergency vehicles responding to emergency calls. This provision shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

ARTICLE 5
Right of Way

§ 70. Right of way while travelling straight ahead.

1. THE CAR AHEAD. The driver of the vehicle ahead shall have the right of way.

2. RULE OF THE CAR AHEAD. The driver in front or being overtaken from right or left shall survey all traffic which might be affected by a change in pace or direction before slowing or turning and shall not stop nor turn in the ordinary course of travel in such a manner as to cause a collision.

3. RULE OF THE CAR BEHIND. The driver of a vehicle behind or passing another vehicle proceeding in the same direction shall always have his vehicle under such control that he can prevent a collision with the vehicle in front in the event of an emergency turn or stop caused by sudden danger or stop at an official signal.

4. EQUAL RIGHT OF WAY. Drivers travelling abreast and in parallel lines on the right side of the road shall have an equal right of way. Any such driver making a turn shall grant the right of way to the driver proceeding straight ahead.

5. THE DRIVER ON THE RIGHT SIDE OF THE STREET. A driver, all of whose vehicle is on the right side of the street, shall have the right of way over a driver, any part of whose vehicle is on the wrong side of the street.

§ 71. Non-controlled intersection.

The driver of a vehicle approaching an intersection not controlled by traffic lights, shall grant the right of way to the operator of the vehicle approaching from the right.

§ 72. General rules.

A driver:

(a) Shall keep or drive on the right side of a street when passing a vehicle coming from the opposite direction.

(b) Shall keep to the right, as near to the right curb as practicable, but shall move to the left, but not over the centre of a two-way street, upon approaching an intersection at which he desires to make a left turn.

(c) Shall drive to the right of any white line or other marking dividing the centre of a two-way street longitudinally, or between white lines if the street be marked in lanes.

(d) Shall not drive on the wrong side of a two-way street except as permitted in this section.

Article 1, Section 8 of the Constitution of the United States. This Court held that the Traffic Regulations aforesaid are not repugnant to said provisions of the Constitution of the United States."

The foregoing summary, as we believe, supports the assertion that the rulings of the courts below were of a nature to bring these causes within Section 237; subsection (a) of the Judicial Code (28 U. S. C. A. § 344), which is the statutory provision believed to confer jurisdiction on the Supreme Court of the United States to review on direct appeal the judgment of the Court of Appeals of the State of New York. The final judgment of the Court of Appeals necessarily involved questions as to the validity of an enactment having the force of a State statute, on the ground of its being repugnant to the Constitution of the United States, and the decision in the Court of Appeals was in favor of its validity.

The jurisdiction of the Supreme Court of the United States in the premises is also sustained by the authorities cited at page 3 above.

(E) Statement of the Grounds upon Which It Is Contended That the Questions Involved Are Substantial

Two questions are presented on this appeal:

First: Whether Section 124, Article IX of the Traffic Regulations of the Police Commissioner of the City of New York, in the circumstances presented by these cases and as interpreted and applied to forbid the advertisements on the trucks of Defendant-Appellant Railway Express Agency, Inc., is a valid and effective regulation of traffic, or whether that Section is so unrelated to traffic control as to be arbitrary and repugnant to the Fourteenth Amendment of the Constitution of the United States, as depriving the Defendants-Appellants of liberty and property without due process of law and denying them the equal protection of the laws.

Second: Whether Section 124, Article IX of the Traffic Regulations of the City of New York, as so construed and applied, is a valid and effective exercise of the local police power in the regulation of traffic, or whether it is repugnant to Article I, Section 8 of the Constitution of the United States, as imposing an undue burden and restriction upon interstate commerce.

The constitutionality of this enactment, as a traffic regulation, or of any similar purported regulation of traffic, has never been passed upon by the Supreme Court of the United States. The Respondent relied almost entirely in the lower courts upon *Fifth Avenue Coach Co. v. City of New York*, 194 N. Y. 19 (1909), aff'd 221 U. S. 467 (1911). A reading of that decision, however, will demonstrate that the ordinance there involved was not sustained as a safety or health measure, and certainly not as a traffic control law, but as a proper exercise by the City of New York, acting through the Municipal Legislature, of its right, as owner of the city streets, to limit or forbid street uses for private purposes not expressly or by necessary implication permitted by a franchise or corporate charter. Here there is no dispute that the Defendant-Appellant Railway Express Agency, Inc. is authorized by charter to display advertisements on its vehicles. Here the City is not exercising through the Municipal Legislature its undoubted right to limit or forbid certain private uses of the public streets; but rather, the Police Commissioner is purporting to exercise his power to regulate traffic. And here, the Traffic Regulation has been given an interpretation not accorded the ordinance in the *Fifth Avenue Coach* case, viz.: To permit others to advertise themselves while forbidding the Defendant-Appellant to advertise others. It should also be noted that in the *Fifth Avenue Coach* case the ordinance was not applied to an interstate carrier and therefore the second question presented on this appeal, to wit, whether Section 124 of the

(e) May drive on the wrong side of the street when the right side is impassable or closed by construction work, or to fix a flat tire as provided in section 39 of these regulations.

(f) May pass another vehicle proceeding in the same direction by driving on the wrong side of a two-way street, but must yield the right of way to any vehicle coming from the opposite direction. If the centre of the street be marked longitudinally by a white line or marker the driver may not cross it except in accordance with the provisions of Section 39 of these regulations.

(g) May drive on either side of a one-way street, but shall keep to the right as far as practicable.

(h) May pass to the right or left in overtaking a vehicle on a one-way street.

(i) May pass to the right or left in overtaking a vehicle proceeding in the same direction on a two-way street provided in passing the driver of the overtaken vehicle shall not be forced out of his right of way.

(j) Operating on a bridge, viaduct, highway, or in a tunnel where traffic lanes are established by means of marked lines, markers or lights, having entered a lane, shall not leave such lane until it ends, except:

(1) When directed by a police officer.

(2) When a lane is obstructed because of accident or breakdown of a vehicle or where there is an excavation or other roadway obstruction.

(3) Where broken lines are painted.

(k) Nothing herein shall require a driver proceeding on a street on which there is an elevated railroad to drive between the pillars and the curb. Said driver shall, however, grant the right of way to a trolley car or franchise bus when the condition of traffic permits.

§ 73. Right of way on a street partly blocked.

1. If a two-way street be partly blocked, leaving room for but one vehicle to pass, a driver shall not drive against the signal or flag of a police officer or signalman, and the driver proceeding according to signal shall be granted the right of way.

2. If there be no police officer or signalman, first, no driver shall have an absolute right of way; second, drivers meeting at such a point shall be under an obligation to come to a full stop if necessary to avoid a collision and shall proceed by arrangement between them, the driver upon whose side the street is closed yielding preference in proceeding to the driver on whose side the street is open.

3. If there be street construction or impassable objects, except vehicles halted in the due course of travel, on one side of a two-way street, leaving room for two vehicles to pass on the open side between said obstructions and the curb, the centre of the street shall be between said obstructions and the opposite curb.

§ 74. Right of way over driver making turn.

A driver proceeding straight ahead with the green signal shall have the right of way over any driver making a turn.

§ 75. Stop at "Stop" sign.

A driver coming to a full stop at a "stop" sign shall yield the right of way to any driver proceeding on the intersecting street.

§ 76. One-way street.

A driver shall operate a vehicle on a one-way street only in the direction indicated by arrows, except that vehicles of the Fire Department, while responding to an alarm, false or otherwise, may be operated in any direction on a one-way street.

§ 77. Right of way of pedestrians.

1. Pedestrians crossing at an intersection on a crosswalk on a green light shall have a clear and substantial right of way.

2. Pedestrians crossing at an intersection on a crosswalk unprotected by traffic lights or police officer shall have a clear and substantial right of way over any driver.

3. A driver shall not interfere with the right of way of a pedestrian.

Nothing contained herein shall modify the duty of a driver to use due care at all times when a pedestrian shall be in his pathway.

§ 78. Vehicles having right of way.

The following vehicles have preference: — Vehicles of the fire department and of the fire patrol, when going to, or on duty at, or returning from a fire or an alarm, false or otherwise; all ambulances, whether of public or private character when engaged in carrying sick or injured persons to hospitals or other places of relief or treatment or when re-

sponding to a call to attend sick or injured persons; all vehicles when employed in carrying sick or injured persons to hospitals or other places for relief or treatment, when accompanied by a police officer; vehicles of the police department; prison vans; U. S. Mail vehicles carrying the United States mail; and only in cases of emergency, vehicles of the several bureaus of housing and buildings, vehicles of the department of water supply, gas and electricity and of public utility corporations.

§ 79. Right of way of trolley cars.

Subject to the provisions of Sections 78 and 80, surface cars running on tracks laid in the street especially for their use shall have the right of way along such tracks between cross streets over all vehicles moving in the same direction at a lesser rate of speed. The driver of any vehicle proceeding upon the track in front of a surface car at a speed less than the speed of the surface car shall turn out as soon as possible upon signal by the motorman.

§ 80. Duty of drivers on approach of emergency vehicles.

Upon the immediate approach of an authorized emergency vehicle, when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the nearest edge or curb of a street, clear of any intersection and keep it in such a position until the authorized emergency vehicle, or vehicles, has passed, except when otherwise directed by a police officer.

Upon the approach of an authorized emergency vehicle or vehicles as above stated, the motorman of every street car shall immediately stop such car clear of any intersection and keep it in such a position until the authorized emergency vehicle or vehicles has passed, except when otherwise directed by a police officer.

This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street.

§ 81. Following emergency vehicles prohibited.

The driver of any vehicle other than one on official public business shall not follow any emergency vehicle travelling in response to an emergency call closer than two hundred (200) feet, nor drive into nor park such vehicle within the block where such emergency work is in progress.

ARTICLE 6
Signs and Signals

§ 90. Whistle signals.

The following whistle signals by police officers are prescribed:

One Blast: Moving traffic shall stop.

Two Blasts: Cross traffic shall move.

Three or More Blasts: (Emergency) All moving traffic shall immediately stop.

§ 91. Obedience to Police.

A driver must at all times comply with any direction given by a police officer by hand, voice, whistle or mechanical device, and a police officer in order to expedite the movement of traffic or to safeguard pedestrians or property may disregard any traffic light signal or regulation.

§ 92. Traffic control signal legend.

Whenever traffic is controlled by traffic signals exhibiting the word "Go," or "Stop," or exhibiting different colored lights one at a time, the following colors and said terms shall mean:

1. Green alone or "Go." The driver facing the signal may proceed as permitted herein.

2. Red alone or "Stop." The driver facing the signal shall stop as provided herein.

3. Red with green arrow:

   (a) "Right turn — Green arrow": Traffic facing the signal may turn right under conditions specified for "green" or "go."

   (b) "Vertical Green Arrow": Traffic facing the signal may proceed straight ahead under conditions specified for "green" or "go."

   (c) "Left turn — Green arrow": Traffic facing the signal may turn left under conditions specified for "green" or "go."

4. All red or dark period. The driver stopped on or facing a red signal light shall not start during the all red or dark period of such light.

Traffic Regulations constitutes an undue burden upon interstate commerce, was not presented in that case. Finally, the ordinance in the *Fifth Avenue Coach* case was applied to prohibit vehicular advertising only on Fifth Avenue in the City of New York, whereas in the cases at bar the Police Commissioner has proscribed all paid vehicular advertising, not alone on Fifth Avenue but everywhere throughout the City of New York.

Nevertheless and despite these clear factual and legal distinctions between the *Fifth Avenue Coach* case and the instant causes, the Respondent has thus far successfully relied upon that decision to sustain the validity of the statute here involved.

It is of significance, however, that even the majority of the Court of Appeals of the State of New York did not expressly rely upon the *Fifth Avenue Coach* case in affirming the convictions of the Defendants-Appellants.

That the questions here presented are substantial and closely debatable is indicated by the very sharp cleavage of opinion in the Court of Appeals.

Those questions are of vital importance not only to the Defendants-Appellants, who are personally interested in the outcome of these appeals, but also to all those engaged in the business of vehicular advertising in the City of New York and to all carriers in interstate commerce who display paid advertising upon their vehicles, and who have occasion, by the necessity of their business, to enter the territorial limits of the City of New York.

That the foregoing questions presented on this appeal are substantial is further evidenced by the basic underlying propositions and supporting authorities stated and cited immediately below.

5. Red blinker. The driver facing the signal shall come to full stop and go when safe.

6. Yellow or white blinker. Driver shall proceed with caution.

§ 93. 1. Rule of stops and turns on simultaneous traffic control signal system:

(a) A driver shall stop back of the pedestrian crosswalk on the near side of any intersection he is approaching when the light ahead of him shall turn red.

(b) A driver turning into or from or crossing a street controlled by such a system at intersections at which there is no light shall obey the rule of turns and crossings as if a light were placed at the intersection where he is turning or crossing.

2. Rule of stops on a progressive traffic control signal system or isolated traffic control signal.

On a street controlled by a progressive light control system or where there is an isolated light, a driver shall not be obliged to stop at intersections between him and a signal of red, but he shall stop at the near side crosswalk of the intersection at which said signal shall be set at red.

3. Lights between intersections.

Where a traffic control signal is installed at a point between intersections, the driver of a vehicle shall stop on the red signal at that point.

§ 94. Obedience to official traffic control devices.

The driver of any vehicle and the motorman of any street car shall obey the instructions of any official traffic control device unless otherwise directed by a police officer, subject to the exception granted the driver of an authorized emergency vehicle.

§ 95. Interference with traffic control devices.

No person shall move, remove, deface, damage, or obstruct the view of or otherwise interfere with any traffic control device placed or erected by proper authority.

§ 96. No sign or printing to be permitted without authority.

No sign, painting or printing purporting to give directions, speed limits or other provisions of the Traffic Regulations, or manner of driving, shall be permitted on the streets or sidewalks or buildings without proper authority.

§ 97. Signal by drivers.

1. Signal by driver of vehicle not equipped with a mechanical or electrical signal device. A driver of such a vehicle before starting from the curb or turning to the right or left or slowing down or stopping, except in stopping on a red light or in an emergency, shall give timely warning by holding his arm out horizontally and at right angles to the vehicle. This section shall not apply to street cars or to drivers or motormen of street cars.

2. Signal by driver of vehicle equipped with a mechanical or electrical device. A driver of such a vehicle, before starting from the curb or turning to the right or left or slowing down, shall give timely warning by said signaling device.

3. Drivers shall signal by hand or above described devices to a police officer to inform him of the direction of a turn.

ARTICLE 7

Equipment—Lights

§ 100. Warning devices.

1. Every motor vehicle and motorcycle operated on the streets of this city shall be equipped with a suitable and adequate horn for warning.

2. It shall be unlawful to drive a vehicle to which is attached a gong, bell or siren whistle, or to sound such device in any street. A horn, bell or other device, except a siren, may be attached to a bicycle, and a bell or gong may be used on a street car. This subdivision shall not apply to authorized emergency vehicles.

§ 101. Brakes and steering tests.

1. Every motor vehicle shall be provided with adequate brakes and steering mechanism in good working order and sufficient to control such vehicle when in use.

2. Every motor vehicle shall have brakes which are capable of bringing it to a full stop when operated at 20 miles an hour on dry pavement on level ground within the following distances from the point where such brakes are first applied:

2 wheel brakes	45 feet
4 wheel brakes	30 feet
Hand brakes	75 feet

(F) Propositions and Authorities

I

Section 124 of the Traffic Regulations, although it may be fair on its face, has been applied and administered by the Police Commissioner in a manner which is itself unreasonable, which fails to accomplish the reasonable objects intended, and which makes unjust discriminations between Defendants-Appellants and others in similar circumstances. It is therefore not within the local police power. *Yick Wo* v. *Hopkins*, 118 U. S. 356 (1886).

II

Section 124 of the Traffic Regulations in effect prohibits absolutely the otherwise legitimate business of vehicular advertising in the City of New York, without previous effort by public authority to regulate that business, and without a showing that any abuse inheres in the business itself or that such abuses, if any, are general and difficult to control by regulation, or that they cause or threaten injury to the public so serious as to outweigh the harm that would be caused by complete prohibition. Therefore, the Traffic Regulation is invalid within the settled principle that absolute prohibition is unreasonable as a matter of law when regulation merely will suffice.

Brazee v. *Michigan*, 241 U. S. 340 (1916);
Adams v. *Tanner*, 244 U. S. 590, 594 (1917);
Meyer v. *Nebraska*, 262 U. S. 390, 403 (1923);
Pierce v. *Society of Sisters*, 268 U. S. 510 (1925);
Weaver v. *Palmer Bros.*, 270 U. S. 402 (1926);
Ribnik v. *McBride*, 277 U. S. 350 (1928).

III

Section 124 of the Traffic Regulations, even if regarded as regulatory and not prohibitory, is invalid because it is not

reasonably calculated to achieve a legitimate public purpose, and although purporting to have been enacted to protect the public safety, it has no real or substantial relation to that object.

Mugler v. *Kansas*, 123 U. S. 623, 661 (1887);
Hennington v. *Georgia*, 163 U. S. 299, 303 (1896);
Liggett Co. v. *Baldridge*, 278 U. S. 105 (1928).

IV

Section 124 of the Traffic Regulations, as construed to prohibit only the display of posters advertising the products of other than the owner of the vehicle involved, is unreasonably discriminatory and void as denying the Defendants-Appellants the equal protection of the laws.

Royster Guano Co. v. *Virginia*, 253 U. S. 412 (1920);
Power Mfg. Co. v. *Saunders*, 274 U. S. 490; 493 (1927);
Louisville Gas & Elec. Co. v. *Coleman*, 277 U. S. 32, 37-38 (1928);
Smith v. *Cahoon*, 283 U. S. 553, 556, 567 (1931);
Iowa-Des Moines Nat. Bank v. *Bennett*, 284 U. S. 239 (1931);
Borden's Co. v. *Baldwin*, 293 U. S. 194, 210 (1934);
Nashville C. & St. L. Ry. v. *Walters*, 294 U. S. 405, 429, 432 (1935);
Mayflower Farms v. *Ten Eyck*, 297 U. S. 266 (1936);
Hartford Co. v. *Harrison*, 301 U. S. 459, 461, 462 (1937).

V

Section 124 of the Traffic Regulations, as interpreted and applied to prohibit the display of paid vehicular advertising carried on trucks engaged in interstate commerce and in performance of a nation-wide contract for such advertising display, constitutes an undue burden on interstate commerce.

Smith v. *Alabama*, 124 U. S. 465 (1888);
Hennington v. *Georgia*, 163 U. S. 299 (1896);
N. Y., N. H. & H. R. Co. v. *N. Y.*, 165 U. S. 628 (1897);
Lake Shore & M. S. Ry. Co. v. *Ohio*, 173 U. S. 285 (1899);
Adams Express Co. v. *N. Y.*, 232 N. Y. 14, 31 (1914);
Maurer v. *Hamilton*, 309 U. S. 598, 606 (1940);
U. S. v. *Amer. Trucking Ass'ns*, 310 U. S. 534, 538 (1940);
Southern Pacific Co. v. *Arizona*, 325 U. S. 761 (1945);
Morgan v. *Commonwealth of Virginia*, 328 U. S. 373 (1946).

Dated: New York, N. Y., February 11, 1948.

Respectfully submitted,

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§ 113. Rule of turn on lights.

The color of the light referred to shall be the color facing the driver when he is driving straight ahead before turning.

1. A right turn shall be made on a green light.

2. A left turn shall be made on a green light.

3. A driver, intending to make a left turn, who has passed beyond the near side crosswalk and is waiting on the intersecting street when the light ahead turns red, shall complete a left turn when the light on the intersecting street turns green.

4. A driver shall not turn on the red light except:

(a) When a police officer shall permit him to do so.

(b) When a sign permits him to do so.

(c) When a green arrow permits him to do so.

ARTICLE 9
Obstructions

§ 120. Obstruction of traffic.

1. General provision. No person shall stop a vehicle on any crosswalk or intersection of streets.

2. No person shall place any vehicle crosswise of any street, except to load thereon or unload therefrom, but in no case shall any person permit such vehicle to remain crosswise of any street for a longer period than may be actually necessary for such purposes.

3. Streets used by surface cars. The owner or occupant of any store, warehouse or building in any street, in which the rails of any railroad company are laid so close to the curb as to prevent the owners or occupants from keeping any vehicle in the carriageway in front of his place of business, without interference with the passing of cars of any such company, may, while loading or unloading, occupy so much of the sidewalk as may be necessary for a vehicle; provided that sufficient space be allowed for the passing of pedestrians between the vehicle and the stoop or front of every such store, warehouse or other building.

§ 121. Vehicle shall not obstruct traffic.

The driver of a vehicle shall not permit it to so occupy any street as to obstruct traffic or stand other than as close to the curb or edge of the roadway as possible for any purpose.

§ 122. Retarding traffic.

No person shall drive a vehicle at such a slow speed as to impede or retard the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

§ 123. Intersection or crosswalk obstructions.

A vehicle about to enter an intersection for the purpose of proceeding through the intersection, or to make a right or left turn, shall not enter such intersection when the roadway immediately beyond the confines of the intersection is obstructed by traffic.

§ 124. Advertising vehicles.

No person shall operate, or cause to be operated, in or upon any street an advertising vehicle; provided that nothing herein contained shall prevent the putting of business notices upon business delivery vehicles, so long as such vehicles are engaged in the usual business or regular work of the owner and not used merely or mainly for advertising.

§ 125. Backing to curb.

Subject to the provisions of Article 15 of these regulations, a vehicle shall not back to the curb, except under the following conditions:

(a) On a two-way street a sufficient space shall be left clear for the passage of a vehicle between the backed up vehicle and the center of the street.

(b) On a one-way street a sufficient space shall be left clear for the passage of a vehicle between the backed up vehicle and the opposite curb, or a vehicle parked or engaged in loading or unloading thereat.

ARTICLE 10
Solicitation

§ 130. Talking or selling or soliciting rides.

1. No person shall stand in the travelled part of any street to talk with or sell or offer to sell anything to an occupant of any vehicle.

2. No person shall solicit a ride from the occupant of a vehicle by word or gesture.

(Here follows 1 furnished book, folio 20)

APPENDIX "A"

19

POLICE DEPARTMENT
CITY OF NEW YORK

TRAFFIC REGULATIONS

TRAFFIC REGULATIONS ADOPTED BY THE POLICE COMMISSIONER UNDER AUTHORITY OF SECTION 435, NEW YORK CITY CHARTER

ABSTRACTS FROM VEHICLE AND TRAFFIC LAW, STATE OF NEW YORK

ABSTRACTS FROM ADMINISTRATIVE CODE, CITY OF NEW YORK

and

ABSTRACTS OF TRAFFIC REGULATIONS IN PARKS AND PARK STREETS ADOPTED BY THE PARK COMMISSIONER

Published for the Information of Drivers and Pedestrians

January 1, 1948

ARTHUR W. WALLANDER
POLICE COMMISSIONER

Copies may be obtained at Police Stations

U. F. 47

3. No person shall talk to or solicit a driver or other occupant of a passenger vehicle for the purpose of watching, guarding, washing, polishing or cleaning such vehicle parked or about to be parked on any street, or for the purpose of directing it to a place for parking on any street or assisting in such parking.

4. No person shall approach a passenger vehicle on any street while the same has stopped temporarily or is about so to stop, and wipe or clean the same, or any part thereof, or offer to do so, or render or offer any other service in relation to such vehicle, or solicit a gratuity, except services rendered in connection with emergency repairs at the request of the driver of the vehicle.

5. No person, other than an occupant or prospective occupant of a passenger vehicle on a street, shall open, hold open or close, or offer to open, hold open or close, any door thereof; but this provision shall not apply to such acts when intended purely as social amenity, without expectation or acceptance of a gratuity, nor to doormen or other persons employed by owners, occupants or managers of abutting premises, to render such service, nor when such service is incidental to other legitimate service being rendered to such an occupant or prospective occupant of a passenger vehicle.

6. Unless asked to do so without advance solicitation (direct or implied), no person shall hail or procure for another, not in his or her social company, a taxicab or other passenger vehicle. (NOTE: VIOLATION OF THIS SECTION IS RETURNABLE TO DISTRICT MAGISTRATES COURT.)

ARTICLE 11.
Omnibuses and Street Cars

§ 140. Stops, for omnibuses and street surface railway cars.

1. All omnibuses and street surface railway cars shall come to a full stop before crossing any steam or electric railroad grade crossing.

2. Street surface railway cars when signalled to take on or discharge passengers shall come to a full stop in such a position as not to obstruct the crosswalk before crossing any intersecting or connecting street; except that, with the written approval of the Police Commissioner and upon the installation of "Trolley Stop" signs by the railway company, street surface railway cars may stop:

(a) At other points on unpaved streets.

(b) In the centers of blocks over four hundred feet long.

(c) On the far side of any street containing an intersecting street railway.

§ 141. Omnibuses; routes, stops, safety, etc.

1. No person shall operate or move or cause to be operated or moved on any street an omnibus operating pursuant to a franchise or consent of the Board of Estimate of the City of New York which designates the route to be followed, except on the route so designated; no person shall operate or move or cause to be operated or moved on any street any other omnibus, other than a charter omnibus, except over a route designated by the Police Commissioner in writing.

2. No driver of an omnibus shall pick up or discharge passengers on any street except at bus stops designated by the Police Commissioner in writing. A charter omnibus may stop on the highway at points of origin and destination for the purpose of expeditiously receiving or discharging passengers. No person shall back any omnibus from or into any street or across or along any sidewalk.

3. No person shall operate or move or cause to be operated or moved on any street an omnibus for the operation of which a franchise, consent, certificate of convenience and necessity, order or other authorization of any municipal, state or federal authority is required, unless such franchise, consent, certificate of convenience and necessity, order or other authorization shall have been obtained. No person shall operate or move or cause to be operated or moved on any street an omnibus operating pursuant to a certificate of convenience and necessity, order or other written authorization of any state or federal authority, for which operation a franchise or consent of the Board of Estimate of the City of New York is not required, unless there shall be filed with the Police Commissioner, not later than two weeks after issuance, duly authenticated copies of all such certificates, orders, authorizations and amendments thereto.

4. Every person applying to any governmental authority other than the City of New York for authorization to operate an omnibus into or through the City of New York, for which operation a franchise or consent of the Board of Estimate of the City of New York is not required, shall, within 10 days after the date of submitting such application to

such governmental authority, file a duly authenticated copy thereof with the Police Commissioner and attach thereto a statement setting forth the address, by street and number, of the proposed off-street terminal or terminals to be used within the City of New York.

§ 142. Omnibuses; terminals, stickers, etc.

1. No person shall operate or move or cause to be operated or moved on any street any intrastate or interstate omnibus unless such intrastate or interstate omnibus operates from an off-street terminal or terminals duly approved by the proper authorities of the City of New York.

2. No person shall operate or move or cause to be operated or moved on any street an intrastate or interstate omnibus unless the driver of such omnibus shall have in his possession throughout each trip a route slip setting forth the points of origin and destination by street and number and the route to be followed in the City of New York throughout each such trip, by streets.

3. No person shall operate or move or cause to be operated or moved on any street any omnibus required by law, ordinance, resolution or regulation of any municipal, state or federal authority to display a certificate, disc, sticker, poster or other insignia evidencing that such omnibus has been inspected and is mechanically fit, or has been bonded or insured, or that prescribed fees have been paid, unless such a certificate, disc, sticker, poster or other insignia, currently valid, shall be displayed in the lower right hand corner of the interior surface of the windshield of such omnibus. In the event it is required that any writing be placed on any such certificate, disc, sticker, poster or other insignia by someone other than a public official, no person shall operate or move or cause to be operated or moved on any street any such omnibus unless such writing shall have been placed on such certificate, disc, sticker, poster or other insignia, in black ink and in letters or numbers no less than one inch in height and three-fourths of an inch in width.

4. No person shall operate or move or cause to be operated or moved an omnibus leased, rented or borrowed from another person unless there is marked on the side of the omnibus in letters at least three inches in height, the words "Chartered by" followed by the name of the person operating such leased, rented or borrowed omnibus.

5. No omnibus shall park at any time on any street within the City of New York.

ARTICLE 12
Taxicabs

§ 150.

1. No driver of a taxicab, while awaiting employment, shall stand in any street, except:

(a) On a taxicab stand designated pursuant to law.

(b) In front of fire hydrants, except those located on a street where parking restrictions are in effect.

2. A driver must be seated in and have taxicab ready for immediate operation at all times while such taxicab is standing in front of a fire hydrant. If necessary to leave such taxicab, driver must first remove it from in front of fire hydrant.

3. Taxicab driver must immediately remove his taxicab from in front of a fire hydrant when instructed so to do by members of the Police, Fire and Sanitation Departments and other municipal departments, acting in their official capacity.

4. On hearing the approach of fire apparatus, driver must immediately start his motor so as to be ready to leave such fire hydrant in order that same may be available for immediate use by the Fire Department.

§ 151. Cruising of taxicabs prohibited.

1. A driver of a taxicab shall not operate his vehicle along a street for the purpose of soliciting passengers or searching for passengers.

2. No person shall operate an empty taxicab on Fifth Avenue, from 26th street to 60th street, between the hours of 8:00 A.M., and 8:00 P.M. daily. A driver of a taxicab discharging a passenger on Fifth Avenue shall drive off Fifth Avenue by making a right turn at the first street where such turn is permitted.

§ 152. Loading or unloading in taxicab stand area.

A driver of a taxicab while awaiting employment on a taxicab stand or taxi feed line shall move out of said stand upon request of a driver of a vehicle whose purpose is to expeditiously load or unload merchandise within the area of the taxicab stand.

ARTICLE 13
Miscellaneous

§ 160. Streets designated as play streets.

FOREWORD

The Police Commissioner urges all to study these laws and regulations, and to at all times comply with them.

Strict compliance with these regulations will tend to materially reduce accidents.

PLEASE READ THE PARKING REGULATIONS CAREFULLY.

When it is deemed necessary, a police officer is authorized to give orders and instructions contrary to any provision of these laws and regulations for the purpose of expeditiously moving traffic. The issuance of such orders will lawfully permit you to execute a traffic movement under the officer's direction for which a summons would be issued under ordinary conditions.

The Police Commissioner directs all members of this Department to enforce these laws and regulations in a reasonable, intelligent and common-sense manner, with patience and courtesy extended to all.

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The following regulations shall govern traffic on all streets of the city designated as play streets:

1. Play streets, designated as such by the Police Commissioner, are to be used primarily for children to play in.
2. All vehicles are prohibited from using any street designated as a play street, except as the requirements of the occupants and owners of the property abutting such play street may call for.
3. The regulations governing play streets shall be in effect from 8:00 A.M., to one-half hour after sunset, daily.

§ 161. Minimum age for drivers of horse-drawn vehicles.

The driver of a horse-drawn vehicle shall not be less than 16 years of age.

§ 162. Vehicle, marking of.

Every vehicle other than a vehicle bearing state registration plates, operated on the streets of the city, shall at all times display, plainly marked on both sides in letters and numerals not less than three inches in height, the name and address of the owner thereof. (NOTE: VIOLATIONS OF THIS SECTION ARE RETURNABLE TO DISTRICT MAGISTRATES COURT.)

§ 163. Peddlers.

No peddler, vender, hawker or huckster, shall stop or remain or permit any cart, wagon or vehicle, owned or controlled by him, to stop, remain upon or otherwise encumber any street in front of any premises, the owner of or lessee of the ground floor thereof objecting thereto. No peddler, vender, hawker, or huckster, shall permit his cart, wagon or vehicle to stand on any street within twenty-five feet of any corner of the curb, or to stand at any time on any sidewalk, nor within five hundred (500) feet of any public market, nor within two hundred (200) feet of any school house, public or private. (NOTE: VIOLATIONS OF THIS SECTION ARE RETURNABLE TO DISTRICT MAGISTRATES COURTS.)

§ 164. Cattle, calves, sheep and swine.

No cattle, calves, sheep or swine shall be driven in any street without a permit from the Police Commissioner, and in strict accordance with the routes, hours and other conditions prescribed thereby; provided that cattle, calves, sheep or swine, landed at the foot of a street leading to the slaughter-house to which they shall be destined, may be driven along such street, if the same shall be effectively barred or closed so as to prevent the escape of any said animals during their transfer from the dock to the slaughter-house. (NOTE: VIOLATIONS OF THIS SECTION ARE RETURNABLE TO DISTRICT MAGISTRATES COURTS.)

§ 165. Reporting accidents by drivers of other than motor vehicles.

The driver of any vehicle other than a motor vehicle involved in an accident resulting in death or injury to a person or damage to property, must stop and give his and his employer's name and address to the party sustaining injuries or damage, and in the case of death or injury, he must in addition to the above, without delay, report the accident to the nearest police station, unless he has supplied the information to a police officer on the scene. (NOTE: Accidents involving motor vehicles or motorcycles shall be reported as required by the Vehicle and Traffic Law of the State of New York.)

§ 166. Muffler cut-outs.

No operator or driver of any motor vehicle or motorcycle shall use any cut-out, fitting or other apparatus or device which shall allow the exhaust gas to escape into the atmosphere without passing through a muffler or silencer.

§ 167. Smoking vehicle.

No driver shall proceed while his vehicle is emitting dense or unnecessary quantities of smoke.

§ 168. Steamship Waiting Lines.

No person shall park or stand a vehicle in an officially designated steamship waiting line, unless awaiting entry into a pier, and provided such vehicle is faced in the direction of traffic and is not left unattended.

ARTICLE 14

Special Market Regulations

§ 180. A driver of a vehicle or combination of vehicles over 33 feet in length, including load, for the transportation of merchandise shall not enter or traverse any of the following streets in the Borough of Manhattan:

Park Pl., Murray St., Warren St. and Chambers St. between West St. and West Bway;

Section 435 of the New York City Charter provides that a violation of these rules and regulations is punishable by imprisonment for not more than thirty (30) days, or by a fine of not more than fifty dollars, or by both such fine and imprisonment.

ARTICLE 1

§ 1. Definitions.

The following terms when used in these regulations unless otherwise expressly stated, or unless the context or subject matter otherwise requires, shall be deemed to mean and include:

1. "Authorized emergency vehicle" shall mean vehicles of the fire department (fire patrol), police vehicles, ambulances, and emergency vehicles of federal, state or municipal departments or public service corporations and such other vehicles as are designated or authorized by the Police Commissioner.

2. "Bicycle" shall include any vehicle consisting of an arrangement of a combination of two wheels, one following the other, supported by a frame, propelled by the feet acting upon pedals.

3. "Blind curve" means a curve on a two-way street where the straightaway of the street is not visible from the centre line of the street at the start of the curve.

4. "Commercial vehicle" means a vehicle constructed for, adapted for or generally engaged in carrying merchandise.

5. "Crosswalk" shall include that portion of a public highway clearly indicated for pedestrian crossing by lines or other markings or the extension of the sidewalk space across intersecting streets.

6. "Crosswalk lines" means single white lines painted on a street indicating and outlining limits of pedestrian crossings.

7. "Cruising" shall mean the movement of unoccupied taxicabs or horse drawn cabs over the streets in search of, or soliciting, prospective passengers for hire.

8. "Curb" shall include the boundaries of the street whether marked by curbstones or not so marked.

9. "Designated parking space." That part of any street designated by competent authority and indicated by signs as a place for the parking of vehicles.

10. "Driver" shall mean any person operating, driving, propelling or leading any vehicle.

11. "Intersection" shall include the area bounded by the curb lines, real or projected, of two or more streets which meet or cross each other.

12. "Lights" (Traffic control signal devices):

(a) "Official traffic control devices" shall mean and include all signs, signals, markings and other devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, restricting, warning or guiding traffic.

(b) "Official traffic control signal" means a signalling device operated manually, physically or mechanically, in which different colors or directional signals are shown for periods of time during which the driver shall comply with the meaning conveyed by the colors or directional signals shown.

(c) "Progressive traffic control signal system" means and includes a number of traffic control signals at various intersections, and points along a street controlling traffic only at such intersections, and points where traffic signals are operated.

(d) "Simultaneous traffic control signal system" means a number of traffic control signals along a street so operated as to show the same color indications along the street at the same time, and control traffic at all intersections, or points in the area so designated, and between its first and last signalized intersections, or points.

(e) "Isolated traffic control signal" means a traffic control signal which is not part of a simultaneous or progressive traffic control signal system and which controls traffic only at an intersection, or location at which it is operated.

13. "Motorcycle" shall mean a vehicle propelled by other than muscular power which is so designed that the operator steers the vehicle by turning the single front wheel of the vehicle by means of handle bars.

14. "Motor vehicle" shall include all vehicles propelled by any power other than muscular power, except motorcycles.

15. "Omnibus" shall mean any motor vehicle designed, adapted or used for the transportation of passengers, operating for hire, including vehicles engaging in what is commonly known as courtesy operation, except

vehicles engaging in what is commonly known as taxicab, livery, or drive-yourself service.

(a) "Charter omnibus" shall mean an omnibus engaging in a specific or special trip in the nature of an excursion or outing for which it has been hired or otherwise engaged by oral or written contract for the exclusive use of the charterer.

(b) "Interstate omnibus" shall mean an omnibus which operates between a point within the City of New York and a point without the State of New York.

(c) "Intrastate omnibus" shall mean an omnibus which operates only in the State of New York between a point within and a point without the City of New York.

(d) "Long haul omnibus" shall mean an intrastate or interstate omnibus operating to or from a point more than fifty miles from Columbus Circle in the City of New York.

(e) "Short haul omnibus" shall mean an intrastate or interstate omnibus operating to or from a point not more than fifty miles from Columbus Circle in the City of New York.

(f) "Sight-seeing omnibus" shall mean an omnibus carrying passengers for hire from a fixed point in the City of New York, at which point the passengers embark and are generally discharged, to a place or places of interest or amusement in the City of New York, and shall include a charter omnibus, as defined in these regulations, when engaged in a sight-seeing operation.

16. "Person" shall mean an individual, partnership, company, corporation, association, estate, receiver, lessee, or trustee or representative thereof.

17. "Park, parking, or parked" shall mean the stopping or standing of a vehicle, whether occupied or not, except as follows:

(a) When actually and expeditiously engaged in loading or unloading merchandise.

(b) While actually engaged in discharging or taking up passengers.

(c) When necessary to avoid conflict with other vehicles, pedestrians, animals, or other traffic.

(d) When in compliance with the direction of a police officer or traffic control device.

18. "Right of way" shall mean the right of any pedestrian or driver, proceeding in a lawful manner, to be free from unreasonable danger, challenge or interference by any other user of the street. The term "right of way" shall be given a broad and substantial interpretation in favor of the person possessing the right of way.

19. "Right side of the street" is that part to the right of an actual or imaginary line dividing the street longitudinally into two equal parts between the lines of the curb. The wrong side of the street is that part which is to the left of the above described actual or imaginary line.

20. "Safety Zone" shall mean the area of space officially set apart within a street for the exclusive use of pedestrians and from which vehicles are excluded.

21. "Sidewalk" means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines and intended for the use of pedestrians.

22. "Stop lines" means two white lines painted about one foot apart on a street to indicate to drivers the place of stop when signalled.

23. "Street" shall include a highway, avenue, road, tunnel, bridge, viaduct, bridge parkway, park drive, roadway, road street, and similar areas, and shall be interpreted synonymously and shall mean that part of any public way, improved or unimproved, designated and intended for vehicular traffic.

24. "Vehicle" shall include any device, except a baby carriage, in, upon or by which any person or property is, or may be transported or drawn upon a street irrespective of the motive power, including a horse being led or ridden.

2. Scope of regulations.

These regulations shall apply to pedestrians, drivers, vehicles, streets, and to every person riding, leading or driving an animal.

3. Forbidden acts and omissions.

It shall be unlawful for any person to do an act forbidden or fail to perform any act required by these regulations.

ARTICLE 2
Parking

10. No person shall park a vehicle:

(a) More than one hour on any street beween 7:00 a.m. and 12 midnight unless otherwise restricted.

(b) More than two hours in a designated parking space.

(c) More than three hours between 12 midnight and 7:00 a.m.

NOTWITHSTANDING ANY SPECIAL REGULATIONS PROHIBITING PARKING DURING CERTAIN HOURS, BUT PERMITTING PARKING DURING OTHER HOURS, VEHICLES MUST IN NO CASE BE PARKED IN EXCESS OF THE TIME LIMITS SPECIFIED IN PARAGRAPHS "a," "b," and "c" OF THIS SECTION.

(d) Other than parallel to and close to the right curb and at either curb on a one-way street, except where angle parking is specifically permitted.

(e) On a crosswalk, or within fifteen feet of a crosswalk.

(f) In front of a public or private driveway.

(g) Within fifteen feet of a car stop safety zone.

(h) Upon any bridge or other elevated structure, or within a highway tunnel.

(i) Other than in accordance with restrictions posted on authorized signs.

(j) Other than an omnibus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated by appropriate sign, except that the driver of a vehicle may temporarily stop therein for the purpose of and while actually and expeditiously engaged in loading or unloading, or picking up or setting down passengers.

(k) Principally for the purpose of displaying it for sale.

(l) For the purpose of washing, greasing or repairing a vehicle, except repairs necessitated by an emergency.

(m) Within fifty feet of the nearest rail of a railroad crossing.

(n) Abutting or opposite any street excavation or obstruction when such parking may obstruct traffic.

(o) On the roadway side of any vehicle stopped or parked at the edge or curb of a street. (Double parking.)

(p) In front of an exit or entrance of any theatre, motion picture theatre, or other places of public assemblage during the period of assembly therein.

(q) On a public sidewalk, except when permitted under Article 9, Section 120, subdivision 3 of these Regulations, or under Section 82d7-15.0 of the Administrative Code.

§ 11. Parking in the vicinity of large public gatherings will be subject to temporary regulations established by police authority.

§ 12. Fire hydrants and Fire Stations.

1. A driver shall not stop or stand a vehicle within fifteen (15) feet of a fire hydrant, except under the provisions of Section 150.

2. A driver shall not stop or stand a vehicle in front of an entrance to any fire station and on the side of the street opposite such entrance of any fire station within area indicated by signs or other markings.

§ 13. Driver — parked vehicle.

The driver of a vehicle stopped or parked at the curb shall promptly give way to another vehicle arriving to take on or set down passengers or merchandise.

§ 14. Parking — Doctors' Vehicles.

A duly licensed physician will be permitted to leave his automobile, properly identified by having affixed thereto "MD" or "OI" registration plates issued by the Motor Vehicle Bureau of the State of New York, on the street in front of hospitals, clinics and premises wherein actually attending a patient, for such length of time as may be necessary for that purpose.

§ 15. Parking — Emergency Vehicles.

The driver of an authorized emergency vehicle, as defined herein, shall be permitted to park such vehicle adjacent to the scene of an emergency while actually engaged in activities connected therewith.

§ 16. Parking — Truck-trailers.

No person shall park on any street a truck-trailer without having attached thereto a means of mechanical traction constructed or designed for the purpose of drawing such trailer. This section shall not apply to truck-trailers at loading platforms in the process of loading or unloading.

ARTICLE 3
Safety

§ 20. Dangerous Driving.

Dangerous driving shall mean driving, using or operating any vehicle or appliance or accessory thereof (1) in a manner which unreasonably interferes with the free and proper use of a private or public street or a foot-walk thereof, (2) or unreasonably endangers the users thereof, (3) or

the driver himself, (4) or any occupant of the vehicle he operates, (5) or property.

Dangerous driving is forbidden.

Any person who commits any of the acts contained in the following subdivisions shall be guilty of dangerous driving. The provisions in said subdivisions shall not, however, be exclusive.

(a) WEAVING. It shall be unlawful for any driver to weave in and out of traffic faster than nearby drivers thereby unreasonably interfering with the right-of-way of drivers on the right or left.

(b) CUTTING. When traffic is travelling in parallel lines, no driver shall cut from one line of travel to another and unreasonably interfere with the right-of-way of any driver affected by such change in lines, except in an emergency. It shall be presumptive evidence of a violation of subdivisions (a) and (b) if any adjacent vehicle, into the path of which the cut is made, shall slacken its pace abruptly or swerve into any parallel lane or near to any obstruction in the street or object on the side thereof.

(c) SWINGING ON RED. It shall be presumptive evidence of dangerous driving for a driver to make a turn on a red light unless directed by a police officer, an official traffic sign or a green arrow.

(d) THE WRONG SIDE ON A BLIND CURVE. It shall be presumptive evidence of dangerous driving for a driver while travelling on a blind curve on a two-way street to drive with any part of his vehicle on the wrong side of the street.

(e) THE WRONG SIDE UP A HILL. It shall be presumptive evidence of dangerous driving for a driver while ascending a hill to drive with any part of his vehicle on the wrong side of the street within a distance of 300 feet of the crest of the hill.

§ 21. Passing street car on left.

The driver of a vehicle shall not overtake and pass upon the left or drive upon the left side of any street car proceeding in the same direction, whether such street car is actually in motion or temporarily stopped, except:

(a) When so directed by a police officer; or

(b) When upon a one-way street; or

(c) When upon a street where the tracks are so located as to prevent a driver from passing on the right; or

(d) Upon a street where the trolley rails are so placed that two vehicles travelling in opposite directions can pass in safety in the area between the inside rails.

§ 22. Eight-foot law.

In overtaking a street car which has been stopped for the purpose of receiving or discharging a passenger, a driver shall not drive to the right of a door or footboard so that his vehicle comes within eight (8) feet of any such part of such car so long as the same is stopped and remains standing for the purpose aforesaid, but if safety isle signs shall be in place where the street car stops, said driver may pass between the signs and the curb.

§ 23. Starting vehicle.

No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

§ 24. Riding on handlebars — trick riding — prohibited.

No driver of a motorcycle or bicycle shall carry any other person thereon, except on a seat securely fastened to the machine in the rear of the driver and provided with foot rests and hand grips or in a side car attached to a motorcycle, nor practice any fancy or trick riding upon any street.

§ 25. Use of coasters, roller skates and similar devices.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar devices, shall go upon any street except while crossing a street or a crosswalk and except upon streets set aside as play streets when and as authorized by competent authority. Persons under sixteen (16) years of age violating this section shall not be summoned or arrested, but warned.

§ 26. Coasting.

Coasting on a down-grade with the clutch disengaged or the gears of a vehicle in neutral is prohibited.

§ 27. Towing and trailers.

No vehicle shall be used to tow more than one other vehicle on a street, except vehicles of municipal departments, vehicles on rails or tracks, and in any case the tow line or connection shall not be longer than sixteen (16) feet.

The hand brake shall be adequate to hold the vehicle stationary on any grade upon which operated.

3. Brake tests may be made with an approved decelerometer which holds its reading until released, calibrated to read in stopping distances corresponding to the maximum rate of deceleration during the stopping period, regardless of the actual distance covered in the test.

4. It shall be unlawful to drive a motor vehicle which does not comply with these standards.

5. Whenever a police officer shall test a brake and finds that it fails to meet the standard, he shall notify the driver of the car that said driver or owner shall have the right to demonstrate and test the brake before legal action is taken under this section. Such test shall be made forthwith. A police officer shall not stop nor test the brake or steering apparatus of any vehicle unless he has reasonable cause to believe that the brake or steering apparatus is defective. Said brake and steering apparatus tests shall be made only by police officers specially designated by the Police Commissioner as qualified by training to make them. Any such police officer shall, before he drives such vehicle, upon the request of the driver, show his state operator's license to the driver.

§ 102. Lights while driving or parking.

No driver shall operate a motor vehicle on a street during the period from one-half hour after sunset to one-half hour before sunrise unless such vehicle shall display at least two lighted lamps on the front, one on each side, having a light source of equal power, which shall be visible from a point five hundred feet ahead of the vehicle and which shall project either white or yellow light, and one lighted lamp on the rear which shall display a red light visible from the rear for a distance of at least five hundred feet; and which shall shine upon the number plate in such a manner as to render the numerals thereon visible for at least fifty feet in the direction from which the vehicle is proceeding. No driver shall operate a motorcycle unless it is equipped during the same periods with one lighted lamp in front and one on the rear, or, when such motorcycle is operated with passenger or other truck attached to side or front, two such lamps on the front. The light of the front lamp or lamps of a motorcycle shall be white or yellow and be visible at a point at least two hundred feet ahead of the motorcycle and the ray of the rear lamp, which shall include a red light visible from the rear, shall shine upon the number plate in such a manner as to render the numerals thereon visible for at least fifty feet in the direction from which the motorcycle is proceeding.

A person shall be permitted to park a motor vehicle during the period above described without displaying lights, provided said vehicle is equipped with a reflector as provided for in the Vehicle and Traffic Law of the State of New York. Nothing herein shall be construed as a permission to violate parking regulations.

This section shall not apply to street cars or motormen thereof.

§ 103. Vehicles not to have other than white or yellow light in front.

No driver of a passenger vehicle, except the driver of an ambulance, a police vehicle, an omnibus having a seating capacity of more than seven passengers, an emergency vehicle of a public utility company, or a motor vehicle operated by a chief or assistant chief of a fire department while such vehicle is in use for fire or other emergency service, shall proceed if his vehicle shall have other than a white or yellow light affixed to the front thereof.

§ 104. Lights on horse-drawn vehicle and push-carts.

Every horse-drawn vehicle and push-cart using the streets shall show, between sunset and sunrise, a light or lights so placed as to be seen from the front, rear and each side, and of sufficient illuminating power to be visible a distance of two hundred feet.

ARTICLE 8
Turns

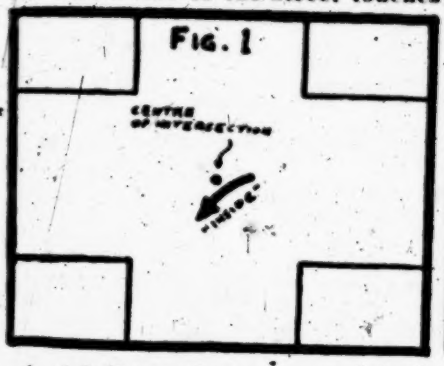
§ 110. Manner of turning at intersections.

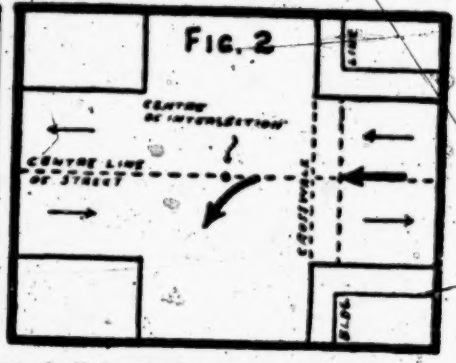
Unless otherwise expressly provided, the driver of a vehicle intending to turn at an intersection shall do so as follows:

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right curb.

2. All left turns shall be "inside," to the left of the center of the intersection, (Fig. 1) but the driver of a vehicle which is too long to make an inside turn may turn on any part of the intersection.

3. A left turn from a two-way street shall begin at the point where the center line of the street touches the crosswalk (Fig. 2).

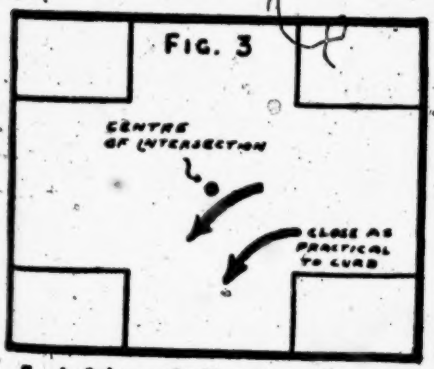


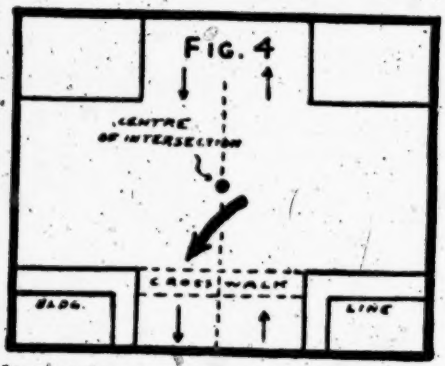


4. A left turn from a one-way street shall be made as in subdivision 3, or may be made by vehicles proceeding along on the left side of such one-way street from the left of the center line of such street but as close as practical to the left curb (Fig. 3).

5. A left turn from a one-way service or side road of a two-way street shall be made from a point as close as practical to the left curb.

6. A left turn into a two-way street shall be made so as to enter said street at the crosswalk to the right of the center line of said street (Fig. 4).





7. A driver shall not make a turn from a two-way street by driving on the wrong side of the street to pass vehicles stopped at an intersection.

111. Left turn; right turn; crossing.

A driver:

(a) Making a left turn, shall grant the right of way to a driver approaching from the right, or proceeding from the opposite direction.

(b) Making a right turn, shall grant the right of way to a driver proceeding straight ahead on an intersecting street.

(c) 1. Making a "U" turn shall grant the right of way to a driver travelling straight ahead. A driver shall not make a "U" turn at a time nor in a manner as to interfere unreasonably with the right of way of pedestrians or vehicular traffic nor where signs forbidding such turns are placed.

2. Making a "U" turn at an intersection shall make such turn only on a green signal.

3. Making a "U" turn at an intersecting one-way street, shall make such turn only in conformity with the directional arrow at such intersecting street.

4. Where "U" turns are permitted, divisional lines — painted or otherwise — may be crossed.

112. Turning on curve at crest of grade prohibited.

No driver shall turn or attempt to turn a vehicle so as to proceed in the opposite direction upon any curve, on the approach to, or near the crest of any grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within two hundred (200) feet. (NOTE: — See Section 74.)

Chambers St., Reade St., Duane St., Jay St., Harrison St. and Franklin St. between West St. and Hudson St.;

North Moore St. and Beach St. between West St. and Greenwich St.;

Washington St. between Barclay St. and Hubert St.;

Greenwich St. between Barclay St. and North Moore St.)

Caroline St. and Staple St.

§ 181. Parking of Vehicles is Prohibited:

a. 24 hours daily:

Chambers St. from West St. to West Bway. and Hudson St.

Caroline St. and Staple St.

b. from 9 p.m., daily, to 8 a.m. the next day:

Barclay St., Park Pl., Murray St. and Warren St. between West St. and West Bway.;

Reade St., Duane St., Jay St., Harrison St., Franklin St., North Moore St. and Beach St. between West St. and Hudson St.;

Washington St. between Barclay St. and Hubert St.; Greenwich St. between Barclay St. and Beach St.

§ 182. Waiting Lines:

No person shall park or place a vehicle in a waiting line in the areas herein indicated, except that he may do so pending entry into the market area at locations indicated during the hours specified, provided he shall face said vehicle in the direction of traffic:

The parking provisions of these Regulations in respect to designated bus stops, area of street intersections and 15 feet each side of fire hydrants, shall remain in full force and effect:

From 9 p.m., daily, to 8 a.m. the next day:

West Bway., along east curb, from Barclay St. to Chambers St.;

Hudson St., along east curb, from Reade St. to Ericsson Pl.;

West St., in lines 10 feet east and 10 feet west of street light poles, from Park Pl. to Warren St.;

West St., in two lines west of the easterly columns of the Miller Hway., from Harrison St. to Franklin St.;

West St., in lines 10 feet east and 10 feet west of the easterly columns of the Miller Hway., from Franklin St. to Laight St.

§ 183. Vehicle not to be Unattended.

No driver or person in charge of a vehicle shall leave such vehicle unattended while loading or unloading or otherwise halted in areas specified in Sections 181 and 182, but such driver or other person shall be present at all times and prepared to move such vehicle in case of fire or other emergency.

ARTICLE 15

Special Midtown Truck Regulations

§ 190. Between the hours of 8:00 A.M. to 6:00 P. M. daily except Sundays, from 14th to 59th Streets, 3rd to 9th Avenues, all inclusive, in the Borough of Manhattan:

No driver of a vehicle or combination of vehicles used for transportation of merchandise shall stop, stand or park in any of the streets herein designated other than parallel and close to the curb and occupy not more than ten (10) feet of roadway space from the nearest curb, and in no case shall any such vehicle be backed in at any angle to curb; except that trucks carrying coal or coke and equipped for rear discharge may back into curb for unloading purposes.

No driver shall stop or stand a vehicle or combination of vehicles for the purpose of loading or unloading merchandise or materials in any one block of streets herein designated, for a period of more than two hours. A vehicle or combination of vehicles not being expeditiously loaded or unloaded is deemed to constitute a parked vehicle subject to parking regulations applicable to that particular location.

ARTICLE 16

Special Commercial Vehicle (Truck) Routes

§ 197. A driver of a vehicle, or a combination of vehicles, for the transportation of merchandise, having an over-all length of 33 feet or more, including load and bumpers, shall operate such vehicle over the following streets only; except that, subject to the provisions of Section 180, a driver may operate on a street not designated below for the purpose of making a delivery, loading or servicing, by leaving such designated street which is nearest such place of delivery, loading or servicing, proceeding by the most direct route, and then returning to the nearest of such streets designated below by the most direct route.

MANHATTAN

Academy St., Nagle Ave. to 10th Ave.
Allen St., Pike St. to 1st Ave.
Amsterdam Ave., 59th St. to 181st St.
Battery Pl., West St. to State St.
Bowery, Chatham Square to Houston St.
Bowling Green, Whitehall St. to Battery Pl.
Broadway, Columbus Ave. to 230th St.
Broome St., Varick St. to Chrystie St.
Canal St., West St. to Bowery.
Chambers St., Hudson St. to New Chambers St.
Chrystie St., Broome St. to 2nd Ave.
Church St., Trinity Pl. to 6th Ave.
Columbus Ave., 59th St. to 65th St.
Delancey St., Clinton St. to Bowery.
Duane St., Park Row to Reade St.
Fort Washington Ave., 178th to 181st Sts.
Grand St., Varick St. to F.D.R. Dr.
Greenwich St., Battery Pl. to Trinity Pl.
Houston St., 1st Ave. to West St.
Hudson St., West Broadway to 14th St.
James Slip, James St. to South St.
James St., Chambers St. to James Slip.
Kenmare St., Bowery to Lafayette St.
Lafayette St., Broome to Kenmare Sts.
Lenox Ave., 110th to 125th Sts.
Nagle Ave., Broadway to 10th Ave.
New Bowery, New Chambers St. to Chatham Sq.
New Chambers St., Chambers St. to James St.
Park Ave., 125th St. to 135th St.
Pike Slip, South St. to Pike St.
Pike St., Pike Slip to Allen St.
Reade St., Duane St. to Hudson St.
South St., Whitehall St. to Pike Slip.
State St., Battery Pl. to Whitehall St.
Trinity Pl., Greenwich St. to Church St.
Varick St., West Broadway to Houston St.
West Broadway, Vesey to Varick Sts.
West St., Battery Pl. to Gansevoort St.
Whitehall St., South St. to Bowling Green.
1st Ave., Allen St. to 125th St.
2nd Ave., Chrystie St. to 128th St.
6th Ave., Church St. to Houston St.
9th Ave., 14th St. to 59th St.
9th Ave., 202nd St. to 207th St.
10th Ave., Academy St. to 202nd St.
10th Ave., Nagle Ave. to Broadway.
10th Ave., 14th St. to 59th St.
11th Ave., Gansevoort St. to 57th St.
12th Ave., 22nd St. to 57th St.
14th St., F.D.R. Dr. to 11th Ave.
23rd St., F.D.R. Dr. to 12th Ave
34th St., 1st Ave. to 12th Ave.
42nd St., 9th Ave. to 12th Ave.
57th St., 1st Ave. to 12th Ave.
110th St., Lenox Ave. to Broadway.
125th St., 1st Ave. to 12th Ave.
128th St., 2nd Ave. to 3rd Ave. Bridge.
135th St., Park Ave. to Madison Ave., and Madison Ave. Bridge.
145th St., Lenox Ave. to Broadway.
155th St., Macombs Pl. to Broadway.
178th St., Amsterdam Ave. to Fort Washington Ave.
179th St., Amsterdam Ave. to Fort Washington Ave.
181st St., Amsterdam Ave. to Fort Washington Ave.
202nd St., 10th Ave. to 9th Ave.
207th St., Broadway to 207th St. Bridge.

BRONX

Bailey Ave., Sedgwick Ave. to 230th St.
Baychester Ave., Bruckner Blvd. to 233rd St.
Boston Rd., Pelham Parkway to City Line.
Boston Rd., 3rd Avenue to 175th St.
Broadway, 230th St. to City Line.
Bruckner Blvd., Lincoln Ave. to Baychester Ave.
Fdw. L. Grant H'way., Jerome Ave. to Washington Bridge
Exterior St., 134th St. to Jerome Ave.
Fordham Rd., 207th St. Bridge to Pelham Parkway.
Gun Hill Rd., Jerome Ave. to Baychester Ave.

Hutchinson River Parkway, Service Roadways, Whitestone Bridge to Bruckner Blvd.
Jerome Ave., Macombs Dam Bridge to City Line.
Major Deegan Blvd., Triborough Bridge to Exterior St.
Pelham Parkway, Fordham Rd. to Boston Rd.
River Ave., 149th St. to Jerome Ave.
Sedgwick Ave., Jerome Ave. to Bailey Ave.
Southern Blvd., Boston Rd. to Fordham Rd.
University Ave., Washington Bridge to West Burnside Ave.
West Burnside Ave., University Ave. to Jerome Ave.
Willis Ave., 134th St. to 149th St.
3rd Ave., 3rd Avenue Bridge to Boston Rd.
138th St., Madison Avenue Bridge to Bruckner Blvd.
149th St., 149th Street Bridge to Bruckner Blvd.
161st St., Jerome Ave. to 3rd Ave.
175th St., Boston Rd. to Southern Blvd.
230th St., Bailey Ave. to Broadway.
233rd St., Jerome Ave. to Boston Rd.

BROOKLYN

Atlantic Ave., Atlantic Ave. Ferry to Rockaway Ave.
Avenue "M," Flatlands Ave. to Kings Highway.
Avenue "N," MacDonald Ave. to Kings Highway.
Bay Ridge Ave., Shore Rd. to 3rd Ave.
Bedford Ave., Taylor St. to Empire Blvd.
Bridge St., John to Nassau Sts.; and from Flatbush Avenue Extension to Fulton St.
Broadway, Kent to Jamaica Aves.
Clay St., Manhattan Ave. to Commercial St.
Columbia St., Hamilton to Hallack Aves.
Concord St., Flatbush Avenue Extension to Jay St.
Commercial St., Manhattan Ave. to Franklin St.
Driggs Ave., Broadway to South 3rd St.
East New York Ave., St. Johns Place to Rockaway Ave.; and from Schenectady Ave. to Utica Ave.
Empire Blvd., Bedford to Utica Aves.
Flatbush Avenue Extension, Manhattan Bridge to Fulton St.
Flatbush Ave., Fulton St. to Atlantic Ave.
Flatlands Ave., Avenue "N" to Pennsylvania Ave.
Flushing Ave., Navy St. to Classon Ave.
Foster Ave., Kings Highway to Remsen Ave.
Franklin St., Commercial St. to Kent Ave.
Front St., Fulton to Bridge Sts.
Fulton St., Furman to York Sts.
Fulton St., Rockaway to Van Sinderen Aves.
Fulton St., Jewel Sq. to Borough Lines.
Furman St., Atlantic Ave. to Fulton St.
Grand St. Extension, Havemeyer to Grand Sts.
Grand St., Grand St. Extension to Grand Street Bridge.
Greenpoint Ave., Franklin St. to Greenpoint Avenue Bridge.
Hamilton Ave., Hamilton Ave. Ferry to 3rd Ave.
Herkimer St., Van Sinderen Ave. to Broadway.
Hicks St., Hamilton to Atlantic Aves.
Howard Ave., Kings Highway to St. Johns Pl.
Hoyt St., Fulton St. to Atlantic Ave.
Jamaica Ave., Broadway to Sheffield Ave.
Jay St., Fulton to York Sts.
Kent Ave., Franklin to Penn Sts.
Kings Highway, Avenue "N" to East New York Ave.
Lafayette Ave., Flatbush to Bedford Aves.
Linden Blvd., Pennsylvania Ave. to Borough Line.
MacDonald Ave., 10th Ave. to Belt Parkway.
Manhattan Ave., Vernon Ave. Bridge to Clay St.
Meeker Ave., Union Ave. to Kosciusko Bridge.
Metropolitan Ave., Grand St. to Metropolitan Ave. Bridge.
Myrtle Ave., Flatbush Ave. Extension to Borough Line.
Navy St., Tillary St. to Flushing Ave.
Pennsylvania Ave., Fulton St. to Flatlands Ave.
Penn St., Union to Kent Aves.
Ralph Ave., Foster to Flatlands Aves.
Remsen Ave., Empire Blvd. to Flatlands Ave.
Rockaway Ave., East New York Ave. to Fulton St.
Roebling St., South 5th St. to South 4th St.; Broadway to Lee Ave.
Rutledge St., Kent to Union Aves.
St. Johns Pl., Howard to East New York Aves.
Schenectady Ave., Empire Blvd. to East New York Ave.
Schermerhorn St., Jay St. to 3rd Ave.
Sheffield Ave., Fulton St. to Jamaica Ave.

Shell Rd., Belt Parkway to Neptune Ave.
Smith St., Atlantic Ave. to Fulton St.
South 3rd St., Driggs Ave. to Grand St. Extension.
South 4th St., Roebling to Havermeyer Sts.
Stewart Ave., Metropolitan Ave. to Grand St.
Taylor St., Bedford to Lee Aves.
Tillary St., Jay to Navy Sts.
Union Ave., Meeker Ave. to Rutledge St.
Utica Ave., East New York to Flatbush Aves.
Van Sinderen Ave., Herkimer St. to Broadway.
York St., Fulton to Jay Sts.
3rd Ave., 69th St. to Flatbush Ave.
20th St., 3rd to 10th Aves.
East 31st St., Avenue "N" to Kings Highway.
39th St., 3rd Ave. to 39th St. Ferry.
60th St., 3rd to MacDonald Aves.

QUEENS

Aguilar Ave., Kissena Blvd. to Parsons Blvd.
Astoria Blvd., Vernon Blvd. to Northern Blvd.
Borden Ave., 2nd St. to Grand Ave.
Braddock Ave., Hillside Ave. to Jamaica Ave.
Bridge Plaza, Vernon Blvd. to Jackson Ave.
Broadway, Queens Blvd. to Vernon Blvd.
Beach Channel Dr., Marine Parkway Bridge to Nassau County Line.
Cooper Ave., Myrtle Ave. to Woodhaven Blvd.
Connecting Highway, Kosciusko Bridge to Laurel Hill Blvd.
Cross Bay Blvd., Liberty Ave. to Beach Channel Dr.
Cross Island Parkway, Service Roads, Whitestone Parkway to Francis Lewis Blvd.
Elderts La., Fulton St. (91st Ave.) to 97th Ave.
Francis Lewis Blvd., Cross Island Parkway to Hillside Ave.
Grand Ave., Grand St. Bridge to Queens Blvd.
Greenpoint Ave., Greenpoint Ave. Bridge to Queens Blvd.
Hempstead Ave., Jamaica Ave. to Nassau County Line.
Hillside Ave., Myrtle Ave. to Braddock Ave.
Hollis Court Blvd., Horace Harding Blvd. to Hillside Ave.
Hoyt Ave., 21st St. to Astoria Blvd.
Jackson Ave., Borden Ave. to Northern Blvd.
Jamaica Ave., Braddock Ave. to Nassau County Line.
Jamaica Ave., 242th to 213th Sts.
Kissena Blvd., Northern Blvd. to Aguilar Ave.
Laurel Hill Blvd., Review Ave. to Queens Blvd.
Linden Blvd., Kings County Line to Sunrise Highway.
Linden St., Whitestone Parkway to Northern Blvd.
Merrick Rd., Hillside Ave. to Nassau County Line.
Metropolitan Ave., Kings County Line to Hillside Ave.
Myrtle Ave., Kings County Line to Hillside Ave.
Northern Blvd., Jackson Ave. to Nassau County Line.
Parsons Blvd., Aguilar Ave. to Hillside Ave.
Queens Blvd., Jackson Ave. to Hillside Ave.
Review Ave., Borden Ave. to Laurel Hill Blvd.
Rockaway Blvd., 95th Ave. to Nassau County Line.
Roosevelt Ave., Queens Blvd. to Willetts Point Blvd.
Rust St., 58th St. to Grand Ave.
Starr Ave., Van Dam St. to Greenpoint Ave.
Steinway Ave., Astoria Blvd. to Northern Blvd.
Sunrise Highway, Linden Blvd. to North and South Conduit Aves., also from North and South Conduit Aves. to Nassau County Line.
Underpass—65th Pl., Queens Blvd. to Laurel Hill Blvd.
Union Turnpike, Queens Blvd. to Nassau County Line.
Van Dam St., Starr Ave. to Greenpoint Ave. Bridge.
Vernon Blvd., Borden Ave. to Astoria Blvd.
Whitestone Parkway Service Rds., Whitestone Bridge to Astoria Blvd.
Willetts Point Blvd., Roosevelt Ave. to Northern Blvd.
Woodhaven Blvd., Queens Blvd. to Liberty Ave.
21st St., Queens Midtown Tunnel Plaza to Hoyt Ave.
43rd St., 54th Ave. to Laurel Hill Blvd.
58th St., Northern Blvd. to Rust St.
126th St., Northern Blvd. to Roosevelt Ave.
166th St., Hillside Ave. to Merrick Blvd.
168th St., Merrick Blvd. to Hillside Ave.
212th St., Hillside Ave. to Jamaica Ave.
212th Pl., Jamaica Ave. to Hillside Ave.
213th St., Hempstead to Jamaica Aves.
14th Ave., Whitestone Parkway to Cross Is. Parkway, Service Roads
48th Ave., Jackson Ave. to Vernon Blvd.
50th Ave., 21st Ave. to Vernon Blvd.

81st Ave., Borden Ave. to Broadway.
54th Ave., Laurel Hill Blvd. to 43rd St.
95th Ave., Elderts La. to Rockaway Blvd.
97th Ave., Rockaway Blvd. to Elderts La.

RICHMOND

Bay St., Hylan Blvd. to St. George Ferry.
Forest Ave., Goethals Bridge to Victory Blvd.
Hylan Blvd., Page Ave. to Bay St.
Morningstar Rd., Bayonne Bridge to Forest Ave.
Page Ave., Outerbridge to Hylan Blvd.
Victory Blvd., Forest Ave. to Bay St.

Abstracts from Vehicle and Traffic Law—State of New York

REFLECTORS—SIGNALS

Every auto truck having a width, inclusive of load, of more than seventy (70) inches, and every omnibus having a seating capacity of more than seven (7) passengers shall have securely attached to the back and front thereof two (2) adequate reflectors, one on either side so placed that they will show the width of the vehicle and every trailer, regardless of its width, shall have two adequate reflectors on the rear so placed that they will show the width of the trailer. Every motor vehicle not hereinabove required to have reflectors shall have, at least, one adequate reflector securely attached to the rear. Such reflector may be part of the rear lamp. The reflectors on the rear shall be red and those on the front shall be yellow. * * * (Section 15, Subdivision 2).

Except as otherwise provided herein, it shall be unlawful to operate on any public highway or street in this state any motor vehicle, or combination of motor vehicle and trailer, so constructed or loaded that the driver thereof is unable to indicate clearly by hand signals to approaching and following traffic his intention of stopping or turning, unless such motor vehicle or combination of vehicles shall be equipped with mechanical signals approved by the commissioner of motor vehicles. It shall also be unlawful to fail to cause such signals to be maintained, at all times, in good and sufficient working order, or to fail to use the same when making or preparing to make any stop or turn. The provisions of this section shall not apply to a vehicle or combination of vehicles lawfully operated under registration issued under Section 62 of this chapter or under a similar provision of law of another jurisdiction (Sec. 15, Subd. 18).

INTOXICATED DRIVER

Whoever operates a motor vehicle or motorcycle while in an intoxicated condition shall be guilty of a misdemeanor. Whoever operates a motor vehicle or motorcycle while in an intoxicated condition after having been convicted of operating a motor vehicle or motorcycle while in an intoxicated condition shall be guilty of a felony. * * * (Sec. 70, Subd. 5).

REPORTING ACCIDENTS

Any person operating a motor vehicle or motorcycle who, knowing that damage has been caused to the real property or to the personal property, not including animals, of another, due to the culpability of the person operating such motor vehicle or motorcycle, or to accident, leaves the place where the damage occurred without stopping, exhibiting his license and giving his name, residence, including street and number, and license number to the party sustaining the damage, or to a police officer, or in case no police officer nor the person sustaining the damage is present at the place where the damage occurred then reporting as soon as physically able the same to the nearest police station, or judicial officer, shall be guilty of a misdemeanor. Any person operating a motor vehicle or motorcycle who, knowing that injury has been caused to a person, due to the culpability of the person operating such motor vehicle or motorcycle, or to accident, leaves the place of such injury or accident, without stopping, exhibiting his license and giving his name, residence, including street and number, and license number, to the injured party and also to a police officer, or in case no police officer is in the vicinity of the place of said injury or accident, then reporting as soon as physically able the same to the nearest police station or judicial officer, is guilty of a misdemeanor. * * * (Sec. 70, Subd. 5a).

Any person operating a motor vehicle or motorcycle which shall strike and injure any horse, dog or animal classified as cattle shall stop and endeavor to locate the owner or custodian of such animal or a police, peace or judicial officer of the vicinity, and take any other reasonable and appropriate action so that the animal may have necessary attention, and shall also promptly report the matter to such owner, custodian or officer, (or if no one of such has been located, then to a police officer of some other nearby community), exhibiting such license and giving his name and residence including street and number and license number. * * * (Sec. 70, Subd. 5b).

Every person operating a motor vehicle which is in any manner involved in an accident, anywhere within the boundaries of this state, in which any person is killed or injured, or in which damage to the property of any one person, including himself, in excess of twenty-five dollars is sustained, shall immediately report the matter in writing to the commissioner. * * * (Sec. 94f, Subd. a).

PROVISIONS APPLYING SPECIALLY TO BICYCLES—EQUIPMENT

Every bicycle, operated or driven upon any public highway in this state, shall be provided with adequate brakes and steering mechanism in good working order and sufficient to control such vehicle at all times when the same is in use, and a suitable horn, bell or other device, which shall produce a sound sufficiently loud to serve as a danger warning but which shall not be used other than as such warning nor be unnecessarily loud or harsh, and a front reflector and a rear reflector each of a type approved by the commissioner, to be applied and adjusted to the bicycle in such manner, as to be visible for at least two hundred feet when opposed by a motor vehicle displaying lawful undimmed headlights at night on an unlighted highway. Every bicycle which is operated or driven on any public highway in this state during the period of one-half hour after sunset to one-half hour before sunrise shall display a lighted lamp on the front which shall be visible from a point five hundred feet ahead of such bicycle and which shall project either white or yellow light. (Section 70.)

Abstracts From Administrative Code of the City of New York

§ 82d7-15.0 of the Administrative Code.

Wares or merchandise in process of loading, unloading, or being received from shipment, may be transferred from trucks or other vehicles over the sidewalk by the use of skids, or by backing up trucks on the sidewalks while so doing.

§ 435-5.0.b. of the Administrative Code.

Unnecessary noises * * * The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section: * * *

The use of any automobile, motorcycle, street car or vehicle so out of repair, so loaded in such manner as to create loud and unnecessary grating, grinding, rattling or other noise. (Section 435-5.0.b4).

The use of mechanical loud speakers or amplifiers on trucks or other moving vehicles for advertising or other purposes except upon specific permit therefor from the Police Department.' (Section 435-5.0.b12).

Abstracts From Traffic Rules and Regulations Department of Parks, Affecting Parks and Park Streets

ARTICLE IV

§ 40. Traffic control.

A rate of speed exceeding twenty-five miles per hour is prohibited in any park or park street, unless herein specifically otherwise provided for by traffic signs. * * *

§ 41. Restrictions on vehicles.

(a) Commercial vehicles. Vehicles constructed or adapted for or engaged in the carrying of merchandise, trucks and trailers are prohibited from using any park except where necessary to make deliveries in such park. Wherever service roads adjoin the main roadway of a park such vehicles are required to use the service roads set apart for

such use. In all cases such vehicles must enter such park from the nearest street intersection or entrance in the direction of traffic and leave by the nearest intersecting street or exit in the direction of traffic. * * *

(c) Omnibuses. No person shall drive or operate within any park any omnibus adapted for more than seven passengers except under a permit. Omnibuses known as outing buses will be permitted to operate between the shortest possible routes from outside a park to deliver or pick up its passengers from a picnic, bathing or other recreation area only if a permit to enter the park has been issued to the person sponsoring the outing, picnic, etc. Buses must proceed over the route and to the parking space designated in the permit. Parking in the designated parking space will be limited to the time prescribed in the permit. Public omnibuses will be permitted to operate only under a special franchise.

(d) No hearse or other vehicle carrying or used for carrying the body of a dead person shall enter or be allowed in any park except by permit.

(e) This section shall apply to vehicles and apparatus of the Fire Department, Insurance Patrol, Police Department or ambulance or to emergency repair wagons of public service corporations or the Department of Parks, EXCEPT RESPONDING FOR EMERGENCY WORK in case of fire, accident, public disaster, impending danger or emergency.

§ 44. Careful driving.

No person shall in any park operate, drive or propel, and no owner, thereof shall cause or permit to be operated, driven or propelled any vehicle recklessly or negligently or at a speed or in such a manner as to endanger or injure persons or property.

§ 45. Restricted areas.

No person shall in any park drive or operate a vehicle within or upon a safety zone, walk, bridle path or any part of any park designated or customarily used for such purposes. No person shall ride a bicycle, velocipede or scooter in any park, except in places designated for such riding; but persons may push such machines in single file to and from such places, except on benches and boardwalks.

§ 47. Obstructing traffic.

No person shall cause or permit any vehicle to obstruct traffic in any park or park street, or to stop except at those places specifically designated or maintained for the purpose of stopping or parking such vehicle, except in cases of emergency.

§ 48. Parking at night.

No person shall, between one-half hour after sunset and one-half hour before sunrise, stop or park in a vehicle except at places designated or maintained therefor. * * *

§ 49. Towing and Projecting articles.

(a) No person shall cause or permit a vehicle to be towed by another vehicle, in any park except that, in case of breakdown a disabled vehicle may be towed to the nearest exit.

(b) No person shall operate or drive in any park a vehicle containing any person or object projecting or hanging outside or on the top thereof.

§ 50. Driving off pavement.

No vehicle shall be operated or driven off the improved or paved roadways of any park. Disabled vehicles may be driven off the roadway so as to prevent obstruction to traffic, but no disabled vehicle shall be permitted to remain in a park for a longer period than two hours.

§ 51. Working on vehicles.

No person shall in any park clean, grease, lubricate; or make repairs to any vehicle except those of a minor nature and then only in cases of emergency.

§ 53. Parkways.

The following provisions shall govern the use of Grand Central, Interborough, Cross Island, Laurelton, Southern, Shore, Gowanus, Henry Hudson, Bronx River, Hutchinson River, Willowbrook, and Richmond parkways, and Harlem River Driveway:

(a) No peddler, vender, hawker or huckster shall stop or remain on any part of the right-of-way or service roads or entrances.

(b) Turning. Left turns and U turns are prohibited except when specifically allowed by an officer or by a traffic direction sign.

(d) Business vehicles. Wagons, trucks, and other business vehicles are prohibited from using the parkways through their entire length.

nor shall any business be conducted on the right-of-way of such parkways.

(e) The use of such parkways is restricted to automobiles classed as pleasure vehicles, excluding, however, such vehicles when adapted to and used for the carrying of commercial goods or materials. In order to provide for the maximum safe use of such parkways, and to preserve life and limb, the following are forbidden to use such parkways: pedestrians, riders and drivers of horses, bicycles, scooters, motorettes and other similar, small, power-propelled vehicles of two or three wheels; any vehicle having two or three wheels, any of which has an over-all diameter of less than fifteen (15) inches, excluding the tire, shall be deemed to be a scooter, motorette or other similar vehicle excluded by the provisions of this section.

§ 54. Vehicle and Traffic Law and Police Regulations.

The State Vehicle and Traffic Law and the Traffic Rules and Regulations made by the Police Commissioner pursuant to Chapter 18, Section 435 of the New York City Charter are hereby established as rules and regulations of the commissioner and shall be in effect in all parks and park streets with like effect as though set forth herein in full, and the traffic rules and regulations set forth herein are in addition to and supplement the same.

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APPENDIX "B"

COURT OF SPECIAL SESSIONS OF THE CITY OF NEW YORK, APPELLATE PART, FIRST JUDICIAL DEPARTMENT

PEOPLE OF THE STATE OF NEW YORK, *Respondent*,

against

RAILWAY EXPRESS AGENCY, INC., Defendant-Appellant

PEOPLE OF THE STATE OF NEW YORK, *Respondent*,

against

CHARLES GERCHARIO AND 12 OTHERS, *Defendants-Appellants*

Per CURIAM:

The appeals herein are from judgments of conviction against the appellant Railway Express Agency, Inc. and thirteen individual appellants for violations of Section 124 of the Traffic Regulations of the City of New York. The thirteen individual appellants were drivers of trucks for the appellant Railway Express Agency, Inc. All fourteen cases have been consolidated for the purposes of appeal and are being treated as one appeal.

Sec. 124 of the Traffic Regulations of the City of New York reads as follows:

> "Sec. 124. Advertising vehicles.
>
> No person shall operate, or cause to be operated, in or upon any street an advertising vehicle; provided that nothing herein contained shall prevent the putting of business notices upon business delivery vehicles, so long as such vehicles are engaged in the usual business or regular work of the owner and not used merely or mainly for advertising."

The appellant Railway Express Agency, Inc. for some time past has, by contract with an advertising agency and

for valuable consideration, permitted the use of the space on the exterior sides of its numerous trucks plying the streets of the City of New York, for general advertising purposes unconnected with its business. The claim is made on this appeal that Sec. 124 of the Traffic Regulations, correctly interpreted, does not prohibit such practice, and if it does, in such case the regulation is unreasonable and unconstitutional.

In so far as the interpretation of the language of Sec. 124 is concerned, the opinion of the Court of Appeals in Fifth Avenue Coach Company *v.* The City of New York, 194 N. Y. 19, (1909) is controlling. In that case the method of advertising was exactly like that in the instant case, and the language of the ordinance in that case was substantially the same as the language of the regulation under consideration herein. The Court of Appeals held that the ordinance prohibited general advertising for hire whether carried on vehicles wholly used for advertising or in connection with the ordinary or usual business in which the vehicles were engaged; that business notices on vehicles were not prohibited so long as the vehicles were engaged in the usual business or regular work of the owner, but even such notices were prohibited on vehicles used merely or mainly for advertising. By business notices, undoubtedly was meant business notices relating to the business of the owner while the vehicle was being used in the course of the owner's business, otherwise the second part of the ordinance would tend to nullify the prohibition contained in the first part thereof.

The Fifth Avenue Coach Company case was a suit in equity for an injunction against the enforcement of a penal ordinance. The Court in its opinion referred to the fact that the legislative charter provisions of the Fifth Avenue Coach Company did not contain authorization to engage in general advertising for hire. Appellant contends that this implies a holding by the Court that the plaintiff in that case had no standing in equity, and that this being a sufficient reason for ousting the plaintiff the remainder of the opinion was obiter dictum. With this we do not agree. The interpretation of the ordinance was among the main issues litigated and the Court's opinion on this branch of the case constituted one of the several reasons for denying plaintiff

the relief it sought. It was not obiter dictum. (Matter of Broderick *v.* City of New York, 295 N. Y. 363.)

The essential difference between the Fifth Avenue Coach Company case and the instant one is that on this appeal we have before us a traffic regulation whereas in the Fifth Avenue Coach Company case the Court had a city ordinance under consideration. It is probably correct to say that an ordinance regulating the use of city streets may be sustained on broader grounds than a Police Department regulation which is adopted pursuant to the restrictive language of a provision of the Charter of the City of New York, in this case sec. 435 thereof.

The pertinent part of Sec. 435 of the Charter reads as follows:

> "Sec. 435. Department; duties.—The police department * * * shall have the power * * * to * * *; regulate, direct, control and restrict the movement of vehicular and pedestrian traffic for the facilitation of traffic and the convenience of the public as well as the proper protection of human life and health; * * *. The commissioner shall make such rules and regulations for the conduct of pedestrian and vehicular traffic in the use of the public streets, squares and avenues as he may deem necessary * * *."

Appellant disputes the authority of the Police Commissioner to adopt regulation 124. Obviously, in order to sustain the validity of the regulation it must be found to come within the authority of the powers granted the Police Commissioner by Charter Section 435. In the Fifth Avenue Coach Company case the Court found that the display of advertising on vehicles passing through the public streets tends to congestion thereon and to some extent interferes with those engaged in business or having their homes thereon. If the appellants' trucks can be covered on the outside with advertisements for hire, then the business delivery vehicles of all other owners engaged in their usual business or regular work can rightfully do likewise. The Court described in vivid language the effect of such advertising on cars and vehicles of many descriptions and in great numbers in producing congestion upon the streets.

An additional consideration of great importance is the matter of safety. It cannot be doubted that advertising on vehicles daily using the streets of the city do constitute a distraction to vehicle drivers as well as the pedestrian public and do affect the safety of the public in the use of the streets. This element of safety comes directly within the power of the Police Commissioner contained in Sec. 435 of the Charter to regulate the movement of vehicular traffic for the convenience of the public as well as the proper protection of human life and health.

The point is made that in view of the Police Commissioner's authority to regulate the "movement" of vehicular and pedestrian traffic, the traffic regulation must be construed to be directed only to the movement of vehicles operated for no purpose but to carry advertising and not to the movement of vehicles being used in the business of the owner and incidentally carrying advertising. We see no important distinction between the two situations. If movement is prohibited in the one case it can be in the other, provided there is a reasonable basis for each restriction. The regulation prohibits the use of the streets by advertising vehicles of all kinds, whether merely or mainly used for advertising or for advertising not related to the owner's business but while the vehicle is being used in the course of his business. It is the advertising vehicle which is being restricted. It is not a matter of the extent to which a vehicle is used for advertising purposes.

The exception in the regulation permitting business notices of the owner on vehicles is a reasonable one. A distinction between general advertising for profit and business notices is a reasonable classification. (Central Lumber Co. *v.* South Dakota, 226 U. S. 157, 160; Waldorf-Astoria Hotel Co. *v.* The City of New York, 212 N. Y. 97, 107, 108; People *v.* Klinck Packing Co., 214 N. Y. 121, 136, 137.

It is our conclusion that the regulation bears a reasonable relationship to the subject of traffic control and public safety and that it reasonably comes within the charter grant of power to the Police Commissioner. In our opinion, the regulation is constitutional.

Accordingly, the judgments are affirmed.

(Sgd.) GEORGE B. DELUCA,
Justice Presiding.

(6548)